

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(STATUTORY ORIGINAL JURISDICTION)

**Present:**

**Mr. Justice Sikder Mahmudur Razi**

**Company Matter No. 1307 of 2025**

**IN THE MATTER OF:**

An application under Section 233 of the Companies Act, 1994.

-AND-

**IN THE MATTER OF:**

M. A. Sabur and others

.... Petitioners

- V E R S U S -

United Commercial Bank PLC and others.

... .....Respondents

**With**

**Company Matter No. 1308 of 2025**

**IN THE MATTER OF:**

An application under Section 85(3) of the Companies Act, 1994.

-AND-

**IN THE MATTER OF:**

Dulal Chandra Roy

..... Petitioners

- V E R S U S -

United Commercial Bank PLC and others.

.....Respondents

Mr. Zainul Abedin, Senior Advocate with

Mr. A.M. Mahbub Uddin, Senior Advocate

Mr. Mohammad Hossain, Senior Advocate

Mr. Mustaque Ahmed Chowdhury, Senior Advocate

Mr. A.M. Masum, Senior Advocate

Mr. Yasir Munir, Advocate

Mr. Syed Mahsib Hossain, Advocate

-----For the petitioners.

Mr. Md. Arshadur Rouf, Senior Advocate with

Mr. Aneek R. Haque, Senior Advocate

Mr. Md. Anisul Hassan, Advocate

Mr. Md. Syfuzzaman Tuhin, Advocate

Mr. Mohammad Syeed Abrar, Advocate

---For the respondent No. 1.

**The 2<sup>nd</sup> September, 2025**

**Sikder Mahmudur Razi, J:**

Today, these two company matters have appeared in the list for further hearing as Part Heard with an application filed by the respondent No. 1 in Company Matter No. 1307 of 2025.

Both the Company Matter being Nos. 1308 of 2025 and 1307 of 2025 have been sent by the Hon'ble Chief Justice of Bangladesh for hearing and disposal analogously.

It appears that Company Matter No. 1308 of 2025 was filed under section 85(3) of the Companies Act, 1994 with the object to stop the 42<sup>nd</sup> Annual General Meeting of the respondent No. 1, namely United Commercial Bank PLC. At the time of admission of the said company matter this court by passing an interim order stayed the holding of the said Annual General Meeting. Against the interim order passed by this court the respondent-bank moved before the Hon'ble Appellate Division by way of filing Civil Petition for Leave to Appeal being No. 2987 of 2025 as well as Civil Petition for Leave to Appeal being No. 2986 of 2025 and they obtained an order of stay from the Hon'ble Judge-in-Chamber on the interim order passed by this court. The order of stay passed by the Hon'ble Judge-in-Chamber of the Appellate Division was subsequently affirmed by their lordships of our Appellate Division. Consequently, the Annual General Meeting of the respondent No. 1-bank was held on the schedule date which ultimately rendered the Company Matter No. 1308 of 2025 infructuous. Accordingly, the said Company Matter being No. 1308 of 2025 is hereby dismissed as being infructuous.

So far the Company Matter being No. 1307 of 2025 is concerned it appears that total 6 (six) petitioners claiming to hold 10.03 % of the total shareholding position filed the instant company matter under section 233 of the Companies Act, 1994.

At this juncture the respondent No. 1-bank by filing an application prays for a direction upon the petitioner Nos. 2 and 4, namely Bashir Ahmed and Ahmed Arif Billah or upon their learned Advocates to produce their respective passports before this court stating *inter-alia* that when the affidavit of the instant matter was sworn *i.e.* on 24<sup>th</sup> July, 2025 the said petitioner Nos. 2 and 4 were not present in the country.

The learned Advocates for the respondent No. 1-bank submits that the petitioners by committing fraud upon this court has filed the instant company matter. Copy of the said application was duly served upon the petitioners' engaged advocate.

When the matter was taken up for hearing on 28.08.2025 the learned filing advocate, appearing on behalf of the petitioners prayed to non-prosecute the said company matter. However, the respondent bank opposes the prayer for non-prosecution and accordingly the matter was adjourned and was fixed for today at the prayer of the learned advocates of both the parties.

Mr. Zainul Abedin along with Mr. A.M. Mahbub Uddin, Mr. Mohammad Hossain and Mr. Mustaque Ahmed Chowdhury learned senior Advocates appearing on behalf of the petitioners submits that the learned filing Advocate had no bad faith and intention to defraud the

court. However, the incident that took place was unintentional and inadvertent and the learned senior Advocates appearing for the petitioners as well as for the filing advocate humbly prays to exonerate the learned filing Advocate considering his age.

The learned filing advocate submits that he had no intention to commit fraud upon the court. He was under a *bonafide* impression that since the other petitioners were very much present, therefore, the presence of the two might not be required. The learned advocate prays unconditional apology for his *bonafide* mistake and again prayed for non-prosecution of the matter.

Per contra Mr. Arshadur Rouf along with Mr. Aneek R. Haque the learned senior Advocates appearing on behalf of the respondent-bank submits that even if the prayer of the learned Advocates for the petitioners to non-prosecute the instant matter is allowed there should be a consequential order so that this type of fraud is not committed in future in any manner.

On the other hand, the Affidavit Commissioner on query of this court replied that without presence of the deponent he does not administer any oath. However, during the rush hours, sometimes it becomes very difficult to meticulously examine and compare the deponent with his National ID. The affidavit Commissioner also seeks unconditional apology for the unintentional event and ensured the court that he will be more careful in future.

Considering the submissions of the learned Advocates appearing for the petitioner as well as the affidavit commissioner, I am inclined to exonerate the learned filing advocate as well as the Affidavit Commissioner from the consequences of their actions. However, the Affidavit Commissioner is hereby warned against any future action like this and the learned filing advocate is hereby directed to be more cautious in future while drafting and filing any petition.

So far the petitioners are concerned, it appears that some of the petitioners are fugitive from law as well as were not present at the time when the affidavit of this particular company matter was sworn as they were outside the country. Consequently, it is evident that they did not appear before the affidavit commissioner at that relevant time rather adopted fraudulent device to deceive the affidavit commissioner as well as the learned Advocate. Evidently, the petitioners have formed this unholy alliance to fulfill the requirements of minimum shareholding position not only to defraud the court but also to frustrate the reform process of the bank which has been undertaken to boost up the financial health of the bank which is struggling to survive because of the misdeeds of some of the erstwhile directors.

However, since the learned filing Advocate and the learned senior Advocates appearing on his behalf as well as on behalf of the petitioners humbly prays to non-prosecute the matter therefore the said prayer is allowed.

Accordingly, the instant Company Matter being No. 1307 of 2025 is hereby dismissed for non-prosecution however, with the following directions;

- 1) The petitioners are hereby precluded from instituting any fresh suit or company matter or any other proceeding in respect of the instant subject matter.
- 2) The petitioners are directed to pay a cost of Tk. 15,00,000/- out of which Tk. 3,00,000/- to be paid to the Account being No. 4435401017179 (savings account) maintained in the name of the Registrar General & Marshal of Supreme Court of Bangladesh and Tk. 12,00,000/- to be paid to the respondent No. 1- United Commercial Bank PLC.

Communicate the order at once.

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(Sikder Mahmudur Razi, J:)