

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(Special Original Jurisdiction)**

WRIT PETITION NO. 13834 OF 2025

In the matter of:

An Application under article 102 of the
Constitution of the People's Republic of
Bangladesh.

And

In the matter of:

Mejor Md. Waliul Islam (Retd)

... Petitioner

-Versus-

Judge, Artha Rin Adalat, Barisal and Joint
District Judge, 1st Court, Barisal and others.

... Respondents

Mr. Md. Mizanur Rahman Khan, Advocate

...For the petitioner

Ms. Hosneara Begum, Advocate

...For the respondent no.3

Mr. Md. Moniruzzaman Asad, Senior Advocate
with

Mr. Muslim Uddin, Advocate

..For the respondent no. 4

**Heard on 22.07.2026, 29.07.2026
and Judgment on 29.07.2026**

Present:

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Rezaul Karim

Md. Mozibur Rahman Miah, J.

On an application under article 102 of the Constitution of the
People's Republic of Bangladesh, a Rule Nisi was issued calling upon the

respondents to show cause as to why the order No. 32 dated 07.07.2024 passed by the respondent no. 1 in Artha Jari Case No. 26 of 2021 arising out of Artha Rin Suit No. 04 of 2016 so far as it relates to accepting bid of the highest bidder in auction dated 13.09.2023 held under section 33(4) of the Artha Rin Adalat Ain, 2003 should not be declared to have been made without lawful authority and is of no legal effect and/or such other or further order or orders passed as to this Court may seem fit and proper.

At the time of issuance of the rule, all further proceedings of the said Artha Execution Case was stayed for a period of 03 (three) months. The said order of stay was lastly extended on 08.06.2026 for another 06(six) months.

The short facts leading to issuance of the rule are:

The present respondent no. 3 as plaintiff originally filed a suit being Artha Rin Suit No. 04 of 2016 claiming an amount of taka 1,11,70,517/- and the said suit was ultimately decreed ex parte vide judgment and decree dated 03.11.2020. Since the defendant of the suit did not come forward to pay the decreetal amount, the decree holder bank then filed an execution case being Artha Execution Case No. 26 of 2021 claiming an amount of taka 1,91,26,471.50. During the proceedings of the said execution case, the decree holder, bank took initiative to sell the property mortgaged with it first under section 33(1) of the Artha Rin Adalat Ain but as no bidder participated in the said auction, the decree holder bank then took initiative for selling the property under section 33(4) of the Artha Rin Adalat Ain and on 13.09.2023 it was fixed for holding auction when as many as 3 bidder participated in the bid. In the said auction the

respondent no. 4 offered taka 2,50,000,00/- and deposited the respective amount and then the learned judge fixed on 19.10.2023 for filing the up to date outstanding dues by the decree holder bank against the petitioner. Ultimately the bid so offered by the respondent no. 4 was found to be highest and accepted the same upon taking report from the decree holder, bank who evaluated the value of the mortgaged property on the date of auction at taka 2,13,25,790.50. At that the application filed by the petitioner earlier dated 19.10.2023 under Order 21 rule 83 read with section 151 of the Code of Civil Procedure was taken up for hearing and upon hearing the petitioner, the same was rejected and the bid proposed by the auction purchaser herein respondent no. 4 was finally accepted.

Feeling aggrieved by and dissatisfied with the said order accepting the bid of the respondent no. 4 the judgment debtor as petitioner came before this court and obtained instant rule and order of stay as has been stated herein above.

Mr. Md. Mizanur Rahman Khan, learned counsel appearing for the petitioner made two fold of submission, **first** of all the learned counsel submits that, the price so offered by the respondent no. 4 was shockingly low as the market value of the said property is near about 9,000,0000/-as per the valuation report conducted by the petitioner.

The learned counsel by taking us to the impugned order also submits that from the pay orders submitted by the three bidders it clearly shows that all the three bidders in collusion with each other submitted the bid by issuing pay orders from the same bank yet the learned judge of the Artha Executing Court has failed to comprehend the said ill intention of

the auction purchaser and very misconceivedly accepted the bid of the respondent no. 4. On those counts the learned counsel finally prays for making the rule absolute on setting aside the impugned order.

By contrast, Ms. Hosnara Begum, learned counsel appearing for the respondent no. 3 by filing an affidavit-in-opposition very robustly opposes the contention taken by the learned counsel for the petitioner and submits that since from the claim made in the execution case and the report submitted by the decree holder, bank finding the valuation of the mortgaged property on the date of action the bid submitted by the respondent no. 4 is the highest bid in comparison to what has been claimed by the petitioner having no scope to find the bid as shockingly low.

The learned counsel further contends that under Order 21 rule 89 of the Code of Civil Procedure the present petitioner had the scope to deposit 5% of the decretal amount and to pray for set aside the auction but without doing so he has challenged the impugned order which cannot be sustained in law and finally prays for discharging the rule.

Mr. Md. Moniruzzaman Asad, along with Mr. Muslim Uddin, learned counsels appearing for the respondent no. 4 by filing an affidavit-in-opposition also opposes the contention so taken by the learned counsel for the petitioner and by taking us to the affidavit-in-opposition in particular, paragraph no. 8 thereof at the very outset submits that earlier this petitioner filed a writ petition being no. 11943 of 2024 where apart from obtaining a rule also obtaining an interim order of stay on the further proceedings of the order being no. 20 dated 13.09.2023 though the said

interim order was given till 23.11.2024 when this respondent challenging that interim order traveled to the Appellate Division by filing a Civil Petition for Leave to Appeal No. 3895 of 2024 when on 20.11.2024 when no order was passed and the rule issuing bench was directed to dispose of the rule of that very writ petition but the said writ petition has not yet been disposed of.

The learned counsel further contends that since the interim order was passed for a limited period and no extension has been taken by the petitioner so the interim order passed in earlier writ petition will have no bearing on the merit as well as disposing of the instant rule.

The learned counsel lastly contends that on the face of the impugned order it appears no illegality ever committed by the learned judge in accepting the bid so have been submitted by the present respondent and finally prays for discharging the rule.

We have considered the submission so placed by the learned counsel for the petitioner and those of the learned counsels for the respondent nos. 3 and 4. Together, we have also very meticulously gone through the writ petition, impugned order and all the material documents so appended therewith vis-à-vis the affidavit-in-opposition filed the respondent nos. 3 and 4 respectively. On going through the impugned order dated 07.07.2024, we find that the auction was held on 13.09.2023 and vide order no. 20 the learned judge fixed on 19.10.2023 to apprise it about the price of the property stood on the date of auction accordingly the decree holder, bank apprised the court that though at the time of filing of the execution case the claim was at taka 1,91,26,471.50 but on the date

of holding auction the price was 2,13,25,790.50 when the respondent no. 4 offered taka2,50,000,00/- that is, must more then that of the value to have found by the decree holder, bank at the time of holding auction. So on that score, we cannot take the submission of the learned counsel for the petitioner that the price quoted by the respondent no. 4 is shockingly low. Because it is only the decree holder bank who can only raise objection with regard to the price supposed to be offered by auction purchaser as mandated in section 32(2)(ga) of the Artha Rin Adalat Ain, 2003, where the judgment debtor has not given any scope to raise such kind of objection and accordingly on the date of holding auction, the learned judge of the Artha Rin Adalat without accepting the bid asked the decree holder bank to let him know about estimated value of the property on the date of auction and accordingly the decree holder, bank in complying with the provision of section 33(2)(ga) informed the court about the value at taka 2,13,25,790/-. So obviously the decree holder bank has complied with the provision of section 33(2)(ga) of the Ain, However, in the four corner of the writ petition we don't find that the petitioner has ever raised any objection. Furthermore, point of fraud has been raised to have committed by the auction purchaser in depositing pay orders is not based on any materials on record. Because since 3 bidders participated in the bid offering 3 diriment price and basing on those prices they have also deposited certain percent of money through pay order having no scope for any court to find same person has deposited those three pay orders. On top of that, since the auction purchaser offered the bid way beyond the claim amount so have been made in the execution case and that of the

outstanding dues stood on the date of holding auction so we are of the considered view that, the price quoted by the respondent no. 4 cannot be taken as shockingly low for which the auction can be set aside.

Regard being had to the above facts and circumstances and basing on the materials on record, and the provision of law so have been discussed and observed herein above, we don't find any illegality in the impugned order which is liable to be sustained.

Accordingly, the rule is discharged however without any order as to costs.

The order of stay granted at the time of issuance of the rule stands recalled and vacated.

Let a copy of this judgment and order be communicated to the respondents forthwith.

Rezaul Karim, J.

I agree.