

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

Present

Mr. Justice Sikder Mahmudur Razi
And
Mr. Justice Raziuddin Ahmed

Writ Petition No. 2574 of 2025

Shyamela

.....Petitioner.

-Versus-

The Artha Rin Adalat and others.

.....Respondents.

None appears

.....For the petitioner.

Mr. Ziaul Haque Sarker, Advocate

.....For the respondent No. 2.

The 2nd December, 2025

This is an application for discharging the rule.

Mr. Ziaul Haque Sarker, learned Advocate for the respondent No. 2-applicant by filing an application submits that in the Artha Jari Case being No. 04 of 2024 the respondent No. 3 prayed for issuance warrant of arrest against the judgment debtor Nos. 1-4 on 27.10.2024 which was allowed by the learned Court on the same day. As there was no mortgaged property, the court issued the impugned order No. 9 dated 27.10.2024 under the provision of section 34 of the Artha Rin Adalat Ain, 2003 and thus did not commit any illegality as well as there was no illegality in Order No. 11 dated 15.01.2025 for refusal of the bail for non-compliance of section 34(6) of the Artha Rin Adalat Ain, 2003 and hence, the Rule has no merit and is liable to be discharged.

He next submits that as per section 20 of the Ain, no person can challenge the order of the Adalat except under the provisions of this Ain. Under the provisions of section 34(6) of the Ain, the court shall only release

the judgement-debtor if he pays 25% of the unpaid dues of the decree-holder and executes a bond to pay the remaining dues in 90 days. However, the petitioner-judgment-debtor without paying 25% of the unpaid dues stayed the impugned orders and got release from the civil jail which is a violation of the express provision of the section 34(6) of the Artha Rin Adalat Ain, 2003 and thus the Rule is liable to be discharged. The learned Advocate further submits that the petitioners' contention that a show cause notice before conviction must be issued which is a misconceived idea of law and no such requirement has been prescribed in the section 34 of the Artha Rin Adalat Ain, 2003 about issuing show cause notice.

He further submits that the Adalat is empowered to pass an order of civil imprisonment on the basis of an application directly under section 34(10) of the Artha Rin Adalat Ain, 2003. As such the executing court below did not commit any illegality to award civil imprisonment and issuing warrant of arrest directly against the petitioners to compel them for recovering the loan amount as well as refusing the bail for non-compliance of section 34(6) of the Ain, 2003 and hence the Writ is without any merit as well as not maintainable and the Rule is liable to be discharged.

The learned Advocate also submitted that the defaulter-borrower as well as the petitioner being guarantor are also liable for repayment of the defaulted loan, even if there are no personal relations between the borrower and the guarantor and hence the instant Rule is liable to be discharged.

In support of the submissions the learned Advocate relied in the case of ABM Shirajum Monir Vs. Subordinate Judge, reported in 14 BLC 716

and in the case of Sujit Kumar Mondal Vs. Bangladesh and others reported in 13 BLC 391.

The application is not opposed.

We have heard the learned Advocate for the respondent No. 2-applicant. We have gone through the application and the materials on record.

Considering the submissions of the learned Advocate for the respondent No. 2-applicant and being satisfied with the grounds taken in the application, we are inclined to allow the same and accordingly, the same is allowed.

As such, the rule is discharged with cost of Tk. 10,000/-. The interim order is hereby recalled and vacated.

The petitioner is directed to pay the said amount in the Account being No. 4435401017179 (savings account) maintained in the name of the Registrar General & Marshal of Supreme Court of Bangladesh, in default, the respondent bank will charge the said amount in the loan account of the petitioner and upon recovery of the dues will remit the said amount in the account mentioned above.

(Sikder Mahmudur Razi, J.)

(Raziuddin Ahmed, J.)