

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. 16008 of 2024

Md. Mosaraf Mia
.....Petitioner.

-Versus-

Judge Artha Rin Adalat, Jamalpur and another.
.....Respondents.

None appears
.....For the petitioner.
Mr. Md. Mamonor Rashid, Advocate
.....For the respondent No.2.

The 09th December, 2025

This is an application for discharging Rule.

Mr. Md. Mamonor Rashid, learned Advocate for the respondent No. 2-applicant bank submits that as per section 34(5) of the Artha Rin Adalat Ain, 2003 the judgment debtor is not entitled to be released on bail unless he deposit 25% of the total decreetal amount and also execute a bond to the effect that he will pay the rest of the decreetal amount within next 90 (ninety) days which has been settled by the Hon'ble Appellate Division in Civil Petition for Leave to Appeal No. 2884-2887 of 2022 in a case of *Rupali Bank Limited Vs. Mahmuda Jaman and others, reported in 20 ADC, page 203*. The petitioner neither paid 25% of the decreetal amount nor executed bond to the effect that he will pay the rest of the decreetal amount within 90 (ninety) days. With these submissions the learned advocate prays for discharging the Rule.

No one appears to oppose the application although copy of the same was duly served.

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

On perusal of the record, it appears that the main ground taken by the petitioner was that before passing the impugned order no show cause notice was issued as per Order XXI Rule 37 of the Code of Civil Procedure. But the law is settled on this point. It has already been settled by a catena of judgments that there is no need to issue any show cause notice under the provision of Section 51 and order XXI Rule 37 of the Code of Civil Procedure; rather civil imprisonment can be awarded and warrant can be issued directly under section 34 of the Ain, 2003 since it makes an elaborate, exhaustive and independent provision for awarding civil imprisonment and issuing of warrant of arrest irrespective of man and woman. As ready reference reliance can be placed on the case of *Provat Kumar Das vs Agrani Bank*, 15 BLC (AD) 96, *Kanika Begum vs Artha Rin Adalat*, 64 DLR 276, *Manik K Bhattacharjee vs Artha Rin Adalat*, 16 BLC 195.

It further appears that the loan in question is not secured by any mortgaged property and therefore, the Adalat committed no illegality in passing the order under section 34 of the Artha Rin Adalat Ain, 2003.

In the light of the above facts and circumstances we find substance in the instant application and accordingly, the same is allowed and the Rule issued in the instant matter is hereby discharged.

However, there is no order as to cost. The interim order passed at the time of issuance of the Rule is hereby recalled and vacated.

Communicate the judgment to all the concerned, at once.

I agree

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(Sikder Mahmudur Razi, J.)

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(Raziuddin Ahmed, J.)