

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

Writ Petition No. 1304 of 2026

In the matter of:

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

AND

In the matter of:

M/s. Faridpur Himagar Limited and others
... Petitioners

-Versus-

The Artha Rin Adalat No. 1, Faridpur and
others

... Respondents

Mr. A.K.M. Asiful Haque, Advocate
... For the petitioners

Mr. Tanim Khan, D.A.G. with

Mr. Md. Abdus Samad Azad, D.A.G.

Md. Abdul Jabbar Joel, A.A.G.

Mr. Sk. Naser Wahed (Shemon), A.A.G.

Mr. Ariful Alam, A.A.G and

Mr. Md. Fuad Hasan, A.A.G.

... For the respondents

Order dated: 03.02.2026

Present:

Justice Sardar Md. Rashed Jahangir
and
Justice Kazi Waliul Islam

Sardar Md. Rashed Jahangir, J:

This is an application under article 102 of the Constitution of the
People's Republic of Bangladesh filed by the petitioners, a private limited
company, M/s. Faridpur Himagar Limited and it's Chairman, Managing
Director, and directors challenging the entertainment Artha Jari Case No. 327
of 2004 of the Artha Rin Adalat No. 1, Faridpur through the order No. 1
dated 30.11.2004 without drawing a final decree of the preliminary decree

dated 25.08.2004 drawn in Artha Rin suit No. 12 of 2004 of the said Adalat (Annexure- 'A' and 'A-1') and order No. 37 dated 12.02.2020 passed by the respondent No. 1, the Artha Rin Adalat, Faridpur in Artha Rin Suit No. 12 of 2004 allowing amendment of the decree dated 25.08.2004 by issuance of certificate under section 35(5) of the Artha Rin Adalat Ain, 2003 passed by the respondent No. 1 in Artha Jari Case No. 327 of 2004 vide order No. 98 dated 20.11.2014 (Annexure- 'C' and 'C-1') of the Artha Rin Adalat, Faridpur.

Learned Advocate Mr. A.K.M. Asiful Haque submits that after passing the decree dated 25.08.2004, in the Artha Rin Suit No. 12 of 2004, the Artha Rin Adalat, Faridpur has become functus officio and as such, the application for amendment of decree through the order No. 37 dated 12.02.2020 together with the order dated 20.11.2014 (Annexures- 'C' and 'C-1') passed in Artha Jari Case No. 327 of 2004 are without jurisdiction.

He further submits that after passing the judgment and decree on 19.08.2004 (decree drawn on 25.08.2004), the Court has no authority to reopen the suit and it has become functus officio, specially, when the Jari Case came to its finality after issuance of the certificate under section 33(5). In support of his submission he referred a judgment of this Court passed in Writ Petition No. 8665 of 2012.

Heard learned Advocate, perused the writ petition together with the annexures and the cited judgment.

Under section 6 of the Artha Rin Adalat Ain, 2003 it's provided that in the proceedings of Artha Rin Suit filed in the Artha Rin Adalat the provisions of the Code of Civil Procedure, 1908 shall apply, subject to not being inconsistent with the provisions of the Artha Rin Adalat Ain, 2003. Meaning thereby the provision which is not inconsistent with the provisions of the Artha Rin Adalat Ain, 2003 shall be applicable and under section 26, it

is further provided that the provisions regarding execution of money decree provided in the Code of Civil Procedure shall be applicable in all the decree execution cases of the Artha Rin Adalat provided that such provisions shall not be inconsistent with the provisions of the Artha Rin Adalat Ain, 2003.

From the facts of the case in hand, it appears that the Artha Rin Suit No. 12 of 20043 has been decreed ex-parte against the petitioners on 19.08.2008. Thereafter, the Artha Execution Case No. 327 of 2004 has been filed before the Artha Rin Adalat, First Court, Faridpur for execution of the decree. Subsequently the executing Court after hearing allowed an application for issuance of a certificate under section 33(5) of the Artha Rin Adalat Ain, 2003.

Learned Advocate for the petitioner submits that after filing of the execution case and issuance of the certificate the Court has become functus officio and has no authority to allow the amendment of the decree.

For consideration of the aforesaid contention, we have perused the order dated 12.02.2020, from where it appears that the decree-holder on 04.03.2019 filed an application before the concern Artha Rin Adalat for amendment of decree and on 12.02.2020 the said application is taken up for consideration and learned Judge of the Artha Rin Adalat after perusal of the decree found that in the “‘খ’ তফশীল” of the plaint under serial No. 1, R.S. Plot No. has been mentioned as 160, but at the time of preparing the decree, it has been mistakenly written as RS Plot No. 260. Moreover it was further found that in the said ‘তফশীল’ of the plaint under serial No. 2, S.A. Khatian Number has been written as 2218 but at the time of preparing the decree it was wrongly written as S.A. Khatian No. 1298 and in the last portion of the prayer of the amendment of decree it is further stated that in the decree under “‘খ’ schedule” in serial No. 2, S.A. Khatian No. 154, 153, 155, 156 are to be corrected as R.S. Khatian No. 113 plot No. 154, 153, 155, 156.

Considering the aforesaid contention of the decree-holder together with the plaint and decree, learned Judge of the Artha Rin Adalat was of the opinion that those mistakes in the decree are clerical in nature, which are required to be corrected.

Under section 152 of the Code of Civil Procedure it is provided that:

“Amendment of judgments, decrees or orders.-

Clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the application of any of the parties.”

From the aforesaid provision, it appears that after pronouncement of judgment and drawing up decree, it cannot be changed/altered or amended, unless there is any arithmetical or clerical error which is required to be removed or corrected from the judgment or the decree, as the case may be.

On further examination of the aforesaid provision, it appears that the aforesaid provision invested a duty upon the Court that if the Court finds suo-moto or upon an application of the concerned party any clerical/ arithmetical mistake, then it shall take immediate action to correct the aforesaid error, thus, it appears that the decree or judgment can be corrected at any time. No specific time limitation has been provided in section 152 to correct the mistake. In the case of Chand Mia and others Vs. M.A. Rajput Ghosh Bahadur and others, reported in 22 BLD 220, the Court finds that an amendment application can be allowed even after 35 years of passing the judgment.

In the Case of Mrs. Nazma Begum Vs. Mrs. Arzuda Khatun and others, reported in 22 BLD 504, it was held that if a case is decided by the Court and it has not been reflected in the decree by omission or clerical

mistake the said omission or mistake can be corrected upon entertaining an application for amendment of decree.

Under the case in hand, the schedule upon which the decree was sought for having been specified in the plaint and although the Court has passed the judgment decree in the suit, but at the time of drawing up the decree the schedule was mistakenly written different from those of the schedule of plaint.

Considering the principle laid down in both the cases as aforementioned, such kind of clerical or arithmetical error can be corrected under section 152 of the Code of Civil Procedure.

In the case of Beche Lal and others Vs. Hem Singh and others, reported in AIR 1953 All 485 it has been held that an error in a decree arisen from an accidental slip or omission may be corrected at any time under section 152 of the Code of Civil Procedure even after the decree has been executed or ostensibly satisfied.

It has been further held that in section 152 of the Code of Civil Procedure no time limit has been fixed for make an amendment in a judgment and decree which has been occasioned by accidental slip or error.

The cited judgment on behalf of the petitioner is of no assistance to improve their case.

In the premise above, we find no substance in the submission of the learned Advocate for the petitioner.

Accordingly, the application is rejected summarily.

Kazi Waliul Islam, J:

I agree.