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

WRIT PETITION NO. 17664 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:

S.M. Steel Re-Rolling Mills Limited, represented by its Managing Director, having its address at Nahar Mansion, 116, CDA Avenue, Post Office-Muradpur, Police Station-Panchlaish, District-Chattogram and another.

… Petitioners

-Versus-

The learned Judge of the Artha Rin Adalat No. 1, Dhaka and others

… Respondents

Mr. Md. Ziaul Hoque, with
Ms. Nusrat Jahan, Advocates

…For the petitioners

Mr. Asadur Rouf, Senior Advocate with
Mr. A.R.M. Kamruzzaman Kakon, Advocate

…For the respondent No. 4

Mr. Mohammad Ali, Advocate

…For the respondent No. 5

Heard on: 10.06.2026, 17.06.2026, 18.06.2026, 28.06.2026, 29.06.2026 and 01.07.2026
Judgment on: 01.07.2026.

Present:
Mr. Justice Md. Mozibur Rahman Miah
And
Mr. Justice Rezaul Karim

Rezaul Karim, J.

This Rule Nisi was issued at the instance of the petitioners calling upon the respondents to show cause as to why the auction proceeding held on 25.11.2024, the Order No. 11 dated 12.08.2025 issued by the respondent

No. 1 (Annexure-D), Notice dated 08.10.2025 issued by the respondent No. 3 (Annexure-F1), in pursuance of the Office Order being Memo No. 05.41.2600.011.27.017.25.1423/1(20) dated 18.09.2025 issued by the respondent No. 2 (Annexure-F), should not be declared to have been passed without lawful authority and is of no legal effect, and/or pass such other or further order or orders as to this Court may seem fit and proper.

At the time of issuance of the Rule, this Court directed the parties to maintain status quo in respect of possession and position of the suit property in question for a period of 3(three) months from date of the order, and the said order of status quo was thereafter extended from time to time.

The facts leading to the issuance of the instant Rule, briefly stated, are as follows.

The petitioner No. 1, a company duly incorporated and registered under the relevant laws, availed a Cash Credit facility of Tk. 135,00,00,000 (Taka One Hundred Thirty Five Crore) only from the respondent No. 4 Bank dated 07.07.2013 and dated 06.07.2015. The said facility was subsequently renewed and rescheduled on several occasions, and was last sanctioned at Tk. 79,47,00,000 (Taka Seventy Nine Crore Forty Seven Lac) only, in the form of overdraft facility of Tk. 25,00,00,000 (Taka Twenty Five Crore) only and a Term Loan facility of Tk. 54,47,00,000 (Taka Fifty Four Crore Forty Seven Lac) only, on certain terms and conditions, dated 13.09.2021 and dated 16.01.2022 respectively.

For the purpose of availing the said loan facility, the petitioner No. 2, who is the Managing Director of the petitioner No. 1 company, mortgaged two of his valuable personal properties through registered Deeds of

Mortgage with Power of Attorney, along with other securities. It is stated that, after availing the loan facility, the petitioner company regularly paid its monthly installments to the respondent No. 4 Bank, but due to a downturn in its business, the petitioner company subsequently failed to adjust the loan liability in time.

It is further stated that, without considering the financial difficulties of the petitioner company's business and without affording any opportunity or issuing any reminder or notice, the respondent No. 4 Bank, all of a sudden, on 23.08.2023, most arbitrarily filed Artha Rin Suit No. 878 of 2023, which was subsequently renumbered as Artha Rin Suit No. 934 of 2025, claiming Tk. 105,19,89,591.82 (Taka One Hundred Five Crore Nineteen Lac Eighty Nine Thousand Five Hundred Ninety One and Paisa Eighty Two) only, as on 14.08.2023, including interest. The petitioners have been contesting the suit by filing written statement.

During pendency of the said suit, the respondent No. 4 Bank, on 24.11.2024, filed an application under Section 12(2) and Section 57 of the Artha Rin Adalat Ain, 2003, praying for permission to sell the mortgaged property by way of auction. The matter was thereafter fixed for hearing of the said application and for filing of the petitioners' written statement on 21.01.2025. However, the application was not heard on that date, and the next date was then fixed on 24.02.2025 for hearing of the said application and for submission of the names of mediators by both parties.

On 24.02.2025, the respondent No. 4 Bank did not press the application dated 24.11.2024 filed under Section 12(2) and Section 57 of the Artha Rin Adalat Ain, 2003, thereby suppressing from the Court the fact that the property in question had already been put to auction on 25.11.2024, that is, the day immediately filing of the said application, and without any order of the Court granting permission for such auction. It is the petitioners' case that the mortgaged property, was sold through the said auction held on 18.12.2024, and a registered Sale Deed No. 1160 dated 12.02.2025 was executed in favour of the respondent No. 5.

Upon coming to know of the said sale, the petitioners filed an application on 12.08.2025 for cancellation of Sale Deed No. 1160 dated 12.02.2025 and for an order of injunction restraining the respondent No. 4 Bank from transferring possession of the flat to the respondent No. 5. By Order No. 11 dated 12.08.2025, the respondent No. 1 rejected the said application. The petitioners thereafter filed a further application on 08.09.2025 for cancellation of the said Sale Deed and for staying the sale proceedings, which was also rejected by the respondent No. 1 by order dated 08.09.2025.

It is further stated that, after the sale of the mortgaged apartment, the respondent No. 4 Bank applied to the District Magistrate for recovery of possession and control of the apartment from the Petitioner No. 2. Pursuant thereto, the respondent No. 2, the Additional District Magistrate, issued impugned Memo No. 05.41.2600.011.27.017.25.1423/2(20) dated 18.09.2025, directing the respondent No. 3 to recover possession and control of the property from the petitioners. In compliance therewith, the respondent No. 3 issued the impugned Notice dated 08.10.2025, directing the petitioners to vacate the property and relinquish all common facilities by 23.10.2025.

Being aggrieved, the petitioners moved this Court and obtained the present Rule on 09.11.2025.

Mr. Md. Ziaul Hoque with Nusrat Jahan, the learned Advocate appearing for the petitioners, submits that the respondent No. 4 Bank, without following the due process prescribed under the Artha Rin Adalat Ain, 2003, most illegally and arbitrarily published the auction notice and conducted the auction on 25.11.2024 without the permission of the learned Judge of the Adalat, which is nothing but a colourable and arbitrary exercise of power by the Bank. He submits that, unless the auction proceeding and the subsequent sale proceedings, including the steps taken for recovery of possession, are declared unlawful and set aside, the Petitioner No. 2 will suffer irreparable loss and injury which cannot be compensated in terms of money.

He further submits that the respondent No. 1 failed to apply his judicial mind to the fact that the application dated 24.11.2024, having been "not pressed" by the Bank on 24.02.2025, must be treated, as if no such application had ever been filed; yet, despite this, the respondent No. 1 proceeded to reject the petitioners' application for cancellation of the Sale Deed and for injunction by his Order No. 11 dated 12.08.2025, which is unlawful and liable to be set aside.

The learned Advocate further submits that, under Section 12(2) of the Artha Rin Adalat Ain, 2003, the Bank is required to communicate the result of the auction and the sale proceeds to the Court, but the respondent No. 4 Bank neither communicated the auction proceeding dated 25.11.2024 nor the subsequent Sale Deed No. 1160 dated 12.02.2025 to the Adalat. Instead, by not pressing the application on 24.02.2025, the Bank kept the Court in the dark, which amounts to suppression of material facts and the commission of fraud upon the Court. He submits that the property mortgaged with the bank is a dwelling house of the petitioner No. 2, who continues to be in possession thereof, and that the auction and the consequent sale, being unlawful, are liable to be declared as having no legal effect.

He also submits that the respondent No. 1 failed to consider that, the matter being sub judice before the Adalat, the mortgaged property could not lawfully be sold without the intervention and permission of the Court, and that the respondent No. 1 allowed the auction to publish on 25.11.2024 to stand despite this, and despite the pendency of the mediation proceedings. He submits that the conduct of the Bank in completing the auction during the pendency of its own application for permission to sell, and during the pendency of the mediation proceedings in the Artha Rin Suit and the connected C.R. Case, without the Court's intervention, amounts to a clear disregard of law and a violation of the principles governing a fair auction. He accordingly submits that the auction proceeding dated 25.11.2024, the consequent sale proceedings, the impugned order No. 11 dated 12.08.2025, the office order dated 18.09.2025, and the notice dated 08.10.2025, are all issued in contravention with Section 12(5)(ka) of the Artha Rin Adalat Ain, 2003, and liable to be declared to have been issued without lawful authority and is of no legal effect.

The learned Advocate further submits that the petitioners had no knowledge whatsoever of the auction published on 25.11.2024, and that the Bank deliberately kept them in the dark. He submits that the Bank's act of filing the application dated 24.11.2024 for permission to sell the mortgaged property was itself a calculated move — filed one day before the auction precisely so that the petitioners, upon receiving notice of the application, would assume that the matter was still at the stage of seeking permission and that no sale was imminent. He submits that by this device, the Bank ensured that the petitioners so that they could not take any step to protect their interest before the auction took place. He further submits that the Bank acted in collusion with the respondent No. 5 and sold the property at a price far below of its market value, causing grave financial loss to the petitioners. He submits that had the petitioners been given timely notice of the auction, as the law requires, they would have had the opportunity to participate in it and purchase the property themselves, and could retain their home but denial of such opportunity, was not mere an oversight but a deliberate act of ill intension on the part of the Bank, which renders the entire auction proceeding and the Sale Deed tainted and liable to be set aside.

Mr. Asadur Rouf, the learned Senior Advocate with Mr. A.R.M. Kamruzzaman Kakon, the learned Advocate appearing for the respondent No. 4 Bank, by filing the affidavit-in-opposition, opposes the Rule and submits that, the sale process had been verbally informed to the learned Judge of the *Adalat*. He further submits that, the Bank has shown that it had applied to the learned Judge of the *Adalat* for amendment of the plaint, and that the learned Judge allowed such amendment by striking out the property in question therefrom. He submits that, in these circumstances, there is no illegality in the auction or the sale, and that the same stand approved by the Adalat. He further submits that, under Section 12(2) of the Artha Rin Adalat

Ain, 2003, the Bank duly notified the Adalat of the matter through the application for amendment of the plaint. He submits that a mere non-filing of a written application informing the Court regarding the sale does not nullify the auction. He further submits that the petitioners have not raised any question regarding the legality of the auction process itself; their only grievance is that the property was sold without the knowledge and approval of the Court, which, he contends, is not borne out by the facts, since upon perusal of the entire order sheet of the suit it appears that the Court had full knowledge of the sale in question and the same was subsequently ratified by the Adalat. He also submits that, since prior approval of the Court is not required for selling the mortgaged property under Section 12(2) of the Ain — a position which the petitioners themselves do not dispute — and since there was no restraining order in force, the Bank was not obliged to wait for any approval before selling the property, and the Court did not raise any question regarding the sale during the pendency of the application; as such, there is no illegality in the sale. He further submits that the sale in question has already created a valid title in favour of the auction purchaser under Section 12(8) of the Ain, and that the petitioners have failed to establish any unfairness or procedural irregularity in the entire process of the auction. He finally submits that if the sale is cancelled by this Court, the auction purchaser will be seriously prejudiced and will suffer irreparable injury.

Mr. Mohammad Ali the learned Counsel for respondent No. 5 submits that the respondent No. 5 as a auction purchaser purchased the property through auction and made total payment as per order of the Court. In the meantime sale deed was executed and registered. Referring to Section 12(8) of the Artha Rin Adalat Ain 2003, he further submits that if any financial institution sells any secured immovable or movable property in exercise of power such sale shall create valid title in favour of the purchaser and the purchase of such purchaser cannot be any way called in question. He lastly submits that the auction purchaser already invested huge amount for purchasing the property, if the Rule is made absolute, he shall suffer irreparable injury and loss.

We have heard the learned Advocates for the respective parties, and have perused the writ petition, the annexure appended thereto, and the affidavit-in-opposition filed on behalf of the respondent No. 4.

The arguments on both sides turn almost entirely on Section 12 of the Artha Rin Adalat Ain, 2003. It is necessary, at the outset, to set out the material provisions of that section in full:

> *১২। (১) উপ-ধারা(২) এর বিধান সাপেক্ষে, কোন আর্থিক প্রতিষ্ঠান, উহার নিজ দখল বা নিয়ন্ত্রণে থাকা বিবাদীর কোন সম্পত্তি যাহা পণ বা বন্ধক ((Lien or Pledge) রাখিয়া ঋণ প্রদান করা হইয়াছে, এবং যাহা বিক্রয় করিবার আইনগত অধিকার বাদীর রহিয়াছে বা বাদীকে অর্পণ করা হইয়াছে, উহা বিক্রয় না করিয়া বা বিক্রয়লব্ধ অর্থ ঋণ পরিশোধ বাবদ সমন্বয় না করিয়া, অর্থ ঋণ আদালতে কোন মামলা দায়ের করিবে না।*
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> *(২) উপ-ধারা (১) এর বিধান সত্ত্বেও, কোন আর্থিক প্রতিষ্ঠান নিজ দখল বা নিয়ন্ত্রণে থাকা পণ বা বন্ধকী সম্পত্তি বিক্রয় না করিয়া মামলা দায়ের করিলে অনতিবিলম্বে উক্ত সম্পত্তি পূর্ব-বর্ণিত মতে বিক্রয় করিয়া বিক্রয়লব্ধ অর্থ ঋণের সহিত সমন্বয় করিবে এবং বিষয়টি আদালতকে লিখিতভাবে অবহিত করিবে।*
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> *(৩) কোন আর্থিক প্রতিষ্ঠান, বিবাদীর নিকট হইতে কোন স্থাবর সম্পত্তি (Immovable Property) বন্ধক (Mortgage) রাখিয়া অথবা অস্থাবর সম্পত্তি (Movable Property) দায়বদ্ধ রাখিয়া (Hypothecated) ঋণ প্রদান করিলে এবং বন্ধক প্রদান বা দায়বদ্ধ রাখার সময় বন্ধকী বা দায়বদ্ধ সম্পত্তি বিক্রয়ের ক্ষমতা '[***] আর্থিক প্রতিষ্ঠানকে প্রদান করা হইয়া থাকিলে, উহা বিক্রয় না করিয়া এবং বিক্রয়লব্ধ অর্থ ঋণ পরিশোধ বাবদ সমন্বয় না করিয়া অথবা বিক্রয়ের চেষ্টা করিয়া ব্যর্থ না হইয়া, অর্থ ঋণ আদালতে কোন মামলা দায়ের করিবে না।*
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> *(৪) উপ-ধারা (৩) এ উল্লেখিত বিক্রয়ের ক্ষেত্রে আর্থিক প্রতিষ্ঠান এই আইনের ধারা ৩৩ এর উপ-ধারা (১), (২) ও (৩) এর বিধান, যতদূর সম্ভব, অনুসরণ করিবে।*
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> *(৫) কোন আর্থিক প্রতিষ্ঠান, যদি উহার অনুকূলে উপ-ধারা (৩) এর অধীন বন্ধকি বা দায়বদ্ধ কোন স্থাবর বা অস্থাবর সম্পত্তি বিক্রয়ের জন্য এই ধারার অধীন গৃহীত কার্যক্রমের সুবিধার্থে অনুরূপ স্থাবর বা অস্থাবর সম্পত্তির দখল ও নিয়ন্ত্রণ বিক্রয়ের পূর্বে বা পরে বিবাদী বা ঋণ গ্রহীতা হইতে নিজ দখল বা নিয়ন্ত্রণে সমর্পিত হওয়া অথবা, ক্ষেত্রমত, ক্রেতার অনুকূলে সমর্পণ করা প্রয়োজন মনে করে, তাহা হইলে*

উক্ত আর্থিক প্রতিষ্ঠান লিখিতভাবে অনুরোধ করিলে বিবাদী বা ঋণ গ্রহীতা অনুরূপ দখল অবিলম্বে আর্থিক প্রতিষ্ঠান বা, ক্ষেত্রমত, ক্রেতার অনুকূলে সমর্পণ করিবে।

(৫ক) উপ-ধারা (৫) এর অধীন লিখিতভাবে অনুরোধ করা সত্ত্বেও যদি বিবাদী বা ঋণ-গ্রহীতা উক্ত উপ-ধারায় উল্লিখিত সম্পত্তির দখল ও নিয়ন্ত্রণ আর্থিক প্রতিষ্ঠান বা, ক্ষেত্রমত, ক্রেতার অনুকূলে সমর্পণ না করিয়া থাকেন, তাহা হইলে আর্থিক প্রতিষ্ঠান সংশ্লিষ্ট স্থানীয় অধিক্ষেত্রের জেলা ম্যাজিস্ট্রেটের নিকট দরখাস্ত করিয়া উক্ত সম্পত্তির দখল ও নিয়ন্ত্রণ বিবাদী বা ঋণ-গ্রহীতা হইতে উহার অনুকূলে বা, ক্ষেত্রমত, ক্রেতার অনুকূলে সমর্পণ না করিতে পারিবে; এবং অনুরূপভাবে অনুরুদ্ধ হইলে জেলা ম্যাজিস্ট্রেট বা তাহার মনোনীত প্রথম শ্রেণীর কোন ম্যাজিস্ট্রেট, উক্ত সম্পত্তি আর্থিক প্রতিষ্ঠানের অনুকূলে প্রদত্ত ঋণের বিপরীতে বন্ধক বা দায়বদ্ধ থাকার বিষয়ে সন্তুষ্ট হওয়া সাপেক্ষে, উহার দখল ও নিয়ন্ত্রণ বিবাদী বা ঋণ-গ্রহীতা হইতে উদ্ধার করিয়া আর্থিক প্রতিষ্ঠান অথবা, ক্ষেত্রমত, আর্থিক প্রতিষ্ঠানের পক্ষ হইতে ক্রেতার অনুকূলে সমর্পণ করিবেন।]

(৬) কোন আর্থিক প্রতিষ্ঠান উপ-ধারা (২) ও (৩) এর বিধান পালন না করিলে, আদালত স্ব-উদ্যোগে অথবা দায়িকের লিখিত আবেদন ক্রমে, ডিক্রী প্রদান করিবার সময় উক্ত আর্থিক প্রতিষ্ঠান কর্তৃক উক্ত সম্পত্তির প্রদর্শিত মূল্যায়নের, যদি থাকে, সমপরিমাণ অর্থ মামলার দাবী হইতে বাদ দিয়া ডিক্রী প্রদান করিবে এবং প্রদর্শিত মূল্য না থাকিলে, আদালত, সম্পত্তির স্থানীয় অধিক্ষেত্রের সাব-রেজিস্ট্রারের প্রতিবেদন গ্রহণ করিয়া, মূল্য নির্ধারণ করিবে এবং নির্ধারিত উক্ত মূল্যের সমপরিমাণ অর্থ মামলার দাবী হইতে বাদ দিয়া ডিক্রী প্রদান করিবে।

(৭) উপ-ধারা (৬) এর অধীন যে সম্পত্তির নির্ধারিত মূল্য মামলার দাবী হইতে বাদ দিয়া ডিক্রী প্রদান করা হইবে, উক্ত সম্পত্তির মালিকানা ধারা ৩৩ এর উপ-ধারা (৭) এর বিধানের অনুরূপ পদ্ধতিতে আর্থিক প্রতিষ্ঠানের অনুকূলে ন্যস্ত হইবে।

(৮) আপাততঃ বলবৎ অন্য কোন আইনে ভিন্নরূপ যাহা কিছুই থাকুক না কেন, এই ধারার অধীন আর্থিক প্রতিষ্ঠান কর্তৃক lien, pledge, hypothecation অথবা Mortgage এর অধীন প্রাপ্ত ক্ষমতাবলে কোন জামানতী স্থাবর বা অস্থাবর সম্পত্তি বিক্রয় করা হইলে, উক্ত বিক্রয় ক্রেতার অনুকূলে বৈধ স্বত্ব সৃষ্টি করিবে এবং ক্রেতার ক্রয়কে কোনভাবেই তর্কিত করা যাইবে নাঃ

তবে শর্ত থাকে যে, আর্থিক প্রতিষ্ঠান কর্তৃক বিক্রয় কার্যক্রমে কোনরূপ অবৈধতা বা পদ্ধতিগত অনিয়ম থাকিলে, জামানত প্রদানকারী ঋণ-গ্রহীতা আর্থিক প্রতিষ্ঠানের বিরুদ্ধে ক্ষতিপূরণ দাবী করিতে পারিবেন।

The central question in this Rule is whether the Bank, which held a registered Deed of Mortgage coupled with a Power of Attorney over the suit property, was entitled to sell that property by public auction while the Artha Rin suit was pending, and if so, whether the procedural steps that followed were consistent with the requirements of Section 12.

The starting point is sub-section (3). That provision makes it clear that where a financial institution has advanced a loan against an immovable property taken in mortgage, and the mortgage instrument itself confers on the lender the power to sell the mortgaged property, the lender shall not file a suit without selling the property or having genuinely tried and fail to sell it.

The evident purpose of this requirement is to ensure that the security is exhausted before resorting to litigation, so that the suit is confined to whatever balance remains unsatisfied after the sale. The present case, however, involves a situation where the suit was filed before the mortgaged property was sold. That is the situation sub-section (2) addresses, and it is to that provision that we must look for the applicable framework.

Sub-section (2), read with sub-section (3), together make it clear that where a suit has been filed before the sale, the Bank even retains its power to sell during pendency of the suit to adjust the sale proceeds against the claim and inform the court in writing. The scheme does not require the Bank to seek any order before exercising that power of sale, because the power derives from the mortgage instrument supported by statute, having no requirement of any fresh order from the Adalat.

The learned Counsel for petitioners placed his reliance on the judgment of the Appellate Division passed in Civil Petition for Leave to Appeal No. 2876 of 2023 in Sulaiman Rubel and Others v. Kazi Sirajul Islam and Others, decided on 27.11.2023, reported in 16 LM (AD) 2024, page 551. We have considered that decision carefully, but we find it does not assist the case of the petitioners, and for more than one reason. To begin with, Sulaiman Rubel was a case where the writ petition was filed before the auction had taken place — the entire litigation was an attempt to stop a sale yet to happen. Here, in the instant case the sale has already been done, and then a registered sale deed was executed, and the respondent No. 5 holds title. The petitioners here have not questioned the propriety of sale; they are seeking to undo it so the ratio of Sulaiman Rubel simply does not applicable here. Beyond that, the petitioners have misread what was held in the cited decision. The Appellate Division directed that "the Bank is at liberty to sell the mortgaged property during pendency of the suit by way of auction or negotiation with the approval of the Artha Rin Adalat." The phrases "with the approval of the Artha Rin Adalat" attaches to negotiation, not to auction. An auction is a public, competitive, rule-governed process, transparent by its very nature; but a negotiated private sale is not, which is why the Adalat's oversight becomes necessary in that mode — particularly where, as in Sulaiman Rubel, the borrower and the mortgagor are different persons. Here the sale was by public auction, and that condition has no application. Finally, the broader thrust of Sulaiman Rubel, if anything, supports the Bank: the Appellate Division expressly held that sub-section (1) of Section 12 is not a mandatory bar to filing suit, and went so far as to set aside the High Court Division's order halting the suit pending the sale, finding it without legal basis. The consistent observation of that judgment is that a Bank's power to sell during the pendency of a suit is preserved by statute and does not require any fresh judicial authorisation.

We now turn to the question of Section 12(2) compliance. That sub-section requires the Bank, having filed a suit without a prior sale, to sell the property, adjust the proceeds against the claim, and inform the court in writing. The petitioners submission is that this was never done — the application of 24.11.2024 was not pressed, and no separate written communication about the auction was made to the Adalat. The Bank's answer is that in the amendment of the plaint — striking the flat off the mortgage schedule and reducing the claim by the sale proceeds, done with the Adalat's knowledge and allowed by it — is precisely the written communication that Section 12(2) contemplates.

The petitioners' argument on this point bears no substance. Section 12(2) does not require any particular application rather requires the Court be informed in writing and that of the claim adjusted. Here, an application for amendment of the plaint has been filed before the Court who examined it, and allowed the same and thereby adjusted the claim upon completing sale. The Adalat has not been "kept in the dark" as advanced by the learned Counsel for the petitioner. The obligation under Section 12(2) of the Ain was then satisfied.

But even if one were to assume, for the sake of argument, that there was some irregularity in the manner in which the Bank conducted the auction or informed the Court — whether in the filing and withdrawal of the application of 24.11.2024, or in the timing of the written communication — the legal consequence of that irregularity is not what the petitioners claim it to be. Section 12(8) of the Ain states in unambiguous terms that where any property is sold to a purchaser under this section, such sale shall create a legal title in favour of the purchaser, and nothing in any other law shall be construed to invalidate such purchase. The proviso then limits the consequences of irregularity to a personal claim for damages against the financial institution — it does not, and cannot, disturb the purchaser's title. The distinction the legislature has drawn here is deliberate and clear: the purchaser is protected absolutely; the remedy for any grievance lies in damages against the respective official of its Bank, not cancellation of any sale. The Appellate Division affirmed this very principle in Banesa Bibi v. Senior Vice President, reported in 63 DLR (AD) 160, holding that "in case of an auction sale held illegally or with irregularity, the same cannot be challenged; however, the owner may sue the bank concerned for any loss, if suffered because of such illegal or irregular auction sale.” The present case falls squarely within that principle. Whatever the petitioners’ grievance against the Bank may be, the sale stands and the title of the respondent No. 5 cannot be disturbed.

The position stated above finds further support in a decision in the case of Md. Moniruzzaman v. Bangladesh and others, reported in 68 DLR (HD) 255, where one of us is party to the said judgment (Md. Mozibur Rahman Miah, J.) ratio of which is akin to the points involved here. The Appellate Division’s in another decisions reported in 18 BLT (AD) 507 and 20 BLT (AD) 84, also held that where a mortgaged property is sold under Section 12 of the Ain, the mortgagor cannot raise any objection regarding any irregularity or illegality in auction sale, since Section 12(8) of the Ain has provided the remedy in that regard, and that once an auction sale is complete, no relief is available against it — the only recourse being a separate proceeding for compensation against the Bank if illegality in the sale is established. This Court further held, in its decision reported in 20 BLT (AD) 64 held that where the mortgagor by Power of Attorney authorises the Bank to sell the mortgaged property, the Bank is entitled to effect such sale without the intervention of any court. The petitioners in the present case are in no different a position. Their allegations of collusion and undervaluation, even if taken into record do not open a door that Section 12(8) has firmly shut. The remedy, if any, lies elsewhere.

We are therefore satisfied that the auction of 25.11.2024 and the consequent Sale Deed dated 12.02.2025 fall within the scheme of Section 12, and that Section 12(8) fully protects the title of the respondent No. 5. The petitioners cannot assert any irregularity in the manner in which the auction was advertised, valued, or conducted, independent of the want-of-permission argument that we have already addressed. In the absence of any such specific allegation, there is no basis to interfere with the sale.

The office Order dated 18.09.2025 and the notice dated 08.10.2025 were issued to give effect to the recovery of possession following a sale that, on our findings, was lawfully effected, Sub-sections (5) and (5Ka) of Section 12 provide precisely this machinery: where the person in occupation does not transfer possession voluntarily, the financial institution or the purchaser may invoke the authority of the District Magistrate. The steps taken by the respondent Nos. 2 and 3 fall squarely within the statutory framework and are independently unobjectionable.

Regard being had to the above facts and circumstances, we don't find any shred of merit in the instant Rule.

Accordingly, the Rule is discharged. However, without any order as to costs.

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

Communicate this judgment and order at once.

Md. Mozibur Raman Miah, J.

I agree.

Mazhar, BO