Bench:
Mr. Justice Md. Ali Reza

Civil Revision No. 112 of 2026
Meghna Star Cables and Electrical Appliances Ltd.
.....petitioner
-Versus-
Director Procurement Bangladesh Rural Electrification Board (BREB) and others
.....opposite parties

Mr. Md. Jubair, Advocate
.....for the petitioner

Ms. Raziah Sultana with
Mr. Md. Mahbubur Rahman, Advocate
.....for opposite parties

Heard on: 22.07.2026

Judgment on: 04.08.2026

In the instant revision Rule was issued calling upon the opposite party 1 to show cause as to why the impugned judgment and order number 2 dated 21.01.2026 passed by the Court of District Judge, Dhaka admitting the Arbitration Miscellaneous Case No. 14 of 2026 so far it relates to not passing an order of ad interim injunction restraining the opposite party 1 from encashing the Bank Guarantee Number 3555-25-LPG-04 dated 20.04.2025 for an amount of taka 2,46,28,018.80 (two crore forty six lac twenty eight thousand eighteen and paisa eighty) till disposal of the Arbitration

Miscellaneous Case Number 14 of 2026 should not be set aside and/or such other or further order or orders be passed as to this Court may seem fit and proper.

The petitioner filed Arbitration Miscellaneous Case Number 14 of 2026 in the Court of the District Judge, Dhaka on 15.01.2026 under Section 7A of the Arbitration Act, 2001 read with Section 151 of the Code of Civil Procedure praying for an ad interim injunction.

The case of the petitioner is that it is a private company engaged in manufacturing various types of wires, cables and electrical appliances maintaining standard quality and customer support. The petitioner has been a regular supplier of copper wire to opposite party 1 namely Bangladesh Rural Electrification Board.

Opposite party 1 invited a tender in which the petitioner participated on 05.01.2025 by submitting a bid of more than taka 24,00,00,000/- (twenty four crore). The bid was found responsive and was accepted by opposite party 1. Accordingly opposite party 1 issued a Notification of Award on 07.04.2025. In pursuance thereof the petitioner furnished a performance bank guarantee on 20.04.2025 equivalent to 10%

of the contract value. Thereafter a contract was executed between the parties on 05.05.2025.

Under the terms of the contract the petitioner was required to supply and deliver the copper wire within 12 weeks from the date of execution of the contract. According to the petitioner opposite party 1 did not inspect the goods within that period. Ultimately the representatives of opposite party 1 inspected the goods on 30.07.2025 and 05.08.2025 and found the goods satisfactory according to the specifications and quality requirements of the contract. Thereafter the Inspection Committee by its letter dated 07.08.2025 permitted delivery of the goods without raising any objection regarding the delay.

The petitioner further stated that because of extraordinary business disruption and the prevailing economic condition of the country it requested opposite party 1 by letters dated 17.09.2025 and 17.11.2025 to extend the time for delivery. Opposite party 1 by its letters dated 30.10.2025 and 12.11.2025 directed the petitioner to deliver the goods. According to the petitioner such conduct of opposite party 1 amounted to acceptance of the delay and an implied extension of time.

The cause of action arose when opposite party 1 by the impugned letter dated 08.01.2026 decided to encash the performance bank guarantee on the ground of delay in delivery and also debarred the petitioner from participating in any procurement process of opposite party 1 for a period of two years. Hence the case.

The petitioner filed the instant case on 15.01.2026. Thereafter by Order Number 2 dated 21.01.2026 the District Judge fixed 02.04.2026 for S.R. and A.D. Thus the next date was fixed after about four months. Being aggrieved by such delay in hearing an urgent matter like injunction the petitioner filed the instant civil revision and obtained the present Rule together with an order directing the parties to maintain status quo with regard to their respective positions for a period of six months by order dated 01.02.2026.

Being aggrieved by the said order opposite party 1 filed Civil Petition for Leave to Appeal Number 1311 of 2026 before the Appellate Division praying for stay of the order of status quo. The Honourable Judge-in-Chamber by order dated 08.06.2026 did not stay the order of status quo. Rather His Lordship directed this Court to hear and dispose of the Rule within two weeks from the date of receipt of the order dated

08.06.2026. The said order was communicated to this Court on 20.07.2026. Thereafter this Rule was fixed for hearing and after hearing the learned Advocates of both sides the hearing was concluded.

On perusal of the record it appears that clause 47 of the contract dated 05.05.2025 provides that if the parties fail to reach a settlement then within 28 days from the first written correspondence relating to the dispute either party may give notice to the other of its intention to commence arbitration under the Arbitration Act, 2001.

It further appears from the record that without issuing any prior notice as apparent from letter dated 07.08.2025 opposite party 1 by its letter dated 08.01.2026 debarred the petitioner from participating in any procurement process with the assistance of the Bangladesh Public Procurement Authority. Challenging the said action the petitioner filed a writ petition and obtained a Rule together with an interim order of stay on 03.05.2026. Against the said order opposite party 1 also filed Civil Petition for Leave to Appeal Number 2000 of 2026 which is now pending for hearing before the Appellate Division.

It also appears that owing to disagreement regarding the appointment of the arbitrator the petitioner filed Arbitration Miscellaneous Case Number 46 of 2026 on 01.03.2026. The said case has subsequently been renumbered as Arbitration Case Number 150 of 2026 and the next date was fixed on 29.07.2026.

Learned Advocate Mr. Md. Jubair appearing for the petitioner submits that the District Judge failed to appreciate that an application for injunction is an urgent matter which requires expeditious disposal. In the instant case the next date was fixed after about four months which defeated the very object of the prayer for injunction. He further submits that such delay is likely to cause irreparable loss and injury to the petitioner and has occasioned failure of justice. As such the Rule is liable to be made absolute.

He further submits that the impugned letter dated 08.01.2026 was issued in violation of the terms and conditions of the contract dated 05.05.2025 without first taking steps for appointment of an arbitrator in accordance with the contract. He submits that the impugned action is operating harshly against the lawful interest of the petitioner and the District

Judge committed error of law which has occasioned failure of justice.

Learned Advocate Ms. Raziah Sultana along with Mr. Md. Mahbubur Rahman appearing on behalf of opposite party 1 submits that under the agreement dated 05.05.2025 the petitioner was required to complete the supply on or before 27.07.2025. Admittedly the petitioner failed to perform its part of the contract. Consequently Bangladesh Rural Electrification Board became contractually entitled to invoke the performance bank guarantee. She submits that such invocation is neither illegal nor arbitrary.

She further submits that the grounds relied upon by the petitioner namely shortage of foreign currency, fluctuation in the exchange rate and other commercial difficulties are ordinary commercial risks. Those circumstances may explain the petitioner's business hardship but do not absolve it from its contractual obligations. She also submits that the law is well settled that ordinarily the Court does not restrain encashment of an unconditional bank guarantee except in cases of fraud or irretrievable injustice. In support of her submission she has referred to the case of Nuvista Pharma Ltd Vs. Chairman, National Board of Revenue and others reported in 65

DLR(AD) 302. She further submits that since the petitioner itself has already invoked the arbitration clause the contractual right of opposite party 1 to encash the performance bank guarantee should not ordinarily be interfered with in revisional jurisdiction. According to her the order of status quo virtually defeats the commercial purpose of the contract and seriously prejudices the contractual rights of Bangladesh Rural Electrification Board.

Referring to the case of Gulf Air Company (GSC) and another Vs. Travel Trade Limited and others reported in 65 DLR(AD) 141 she finally submits that in view of the ratio laid down therein the order of status quo was not properly passed as it was made without affording opposite party 1 an opportunity of hearing.

I have heard the learned Advocates for the parties and perused the materials on record.

It is admitted that the parties executed the contract on 05.05.2025. Under the terms of the contract the petitioner was required to complete the supply of the contracted goods within twelve weeks from the date of execution of the contract that is on or before 27.07.2025.

It appears from the letter dated 07.08.2025 that admittedly no representative of opposite party 1 came forward to inspect the goods within the stipulated delivery period. Ultimately the representatives of opposite party 1 inspected the goods on 30.07.2025 and 05.08.2025 in the presence of the petitioner and found the goods satisfactory and in conformity with the required quality and specifications of the contract. It further appears from the said letter dated 07.08.2025 that no objection was raised regarding the expiry of the contractual delivery period or the delay in delivery. Prima facie it may therefore be inferred that the delay was not objected to at that stage.

Thereafter the petitioner by its letters dated 17.09.2025 and 17.11.2025 explained the extraordinary business disruption and the prevailing economic condition of the country and requested opposite party 1 to extend the time for delivery. On the other hand opposite party 1 by its letters dated 30.10.2025 and 12.11.2025 requested the petitioner to complete the delivery. Subsequently by the impugned letter dated 08.01.2026 opposite party 1 referring to the earlier correspondence decided to invoke the performance bank guarantee equivalent to 10% of the contract value and also

declared the petitioner ineligible to participate in any future procurement process for a period of two years under rule 127(4)(c) of the Public Procurement Rules, 2008.

It further appears that clause 47 of the contract provides that where the parties fail to resolve their dispute amicably either party may initiate the contractual arbitration process by serving the required notice. Prima facie it appears that before taking the impugned action dated 08.01.2026 opposite party 1 did not invoke the contractual dispute resolution mechanism contemplated in clause 47. In such circumstances it cannot be said at this stage that the order of status quo passed by this Court on 01.02.2026 was without lawful basis.

No material has yet been placed before this Court to establish any case of fraud within the meaning of law. At the same time the present dispute also raises the question whether the contractual procedure agreed upon by the parties was followed before the impugned action was taken. In the facts and circumstances of the present case the ratio laid down in Nuvista Pharma Ltd. Vs. Chairman, National Board of Revenue and others reported in 65 DLR(AD) 302 does not appear to be attracted in its strict application at this interlocutory stage. It is also significant that the Honourable

Judge-in-Chamber of the Appellate Division while considering Civil Petition for Leave to Appeal Number 1311 of 2026 did not stay the order of status quo.

It further appears that although the application for temporary injunction in Arbitration Miscellaneous Case Number 14 of 2026 was filed in January 2026 the District Judge fixed the next date in April 2026. Such course does not appear to be consistent with Clause 20 of the Manual of Practical Instructions for the Conduct of Civil Suits which provides as follows:

"It must always be borne in mind that interlocutory applications are usually of an urgent nature and delay in their disposal may cause unnecessary hardship to the parties and may sometimes render the proceedings infructuous. Such applications should ordinarily be heard on the first date fixed for appearance and hearing and certainly on the next succeeding date if a short adjournment becomes necessary in exceptional circumstances". Therefore according to such instruction and practice the District Judge committed wrong.

The decision in Gulf Air Company (GSC) and another Vs. Travel Trade Ltd. and others reported in 65 DLR(AD) 141 is also distinguishable on facts. In the present case the Rule

was not disposed of at the motion stage in a summary manner. After issuance of the Rule opposite party 1 entered appearance and fully contested the matter. Both sides were heard at length before this Court proceeded to decide the Rule.

At this stage this Court is not called upon to determine finally the rights and liabilities of the parties under the contract. The limited question is whether the existing position should be preserved until the District Judge decides the pending application for temporary injunction. Having considered the materials on record this Court is of the prima facie view that the balance of convenience and inconvenience lies in maintaining the existing position. Otherwise the pending proceeding before the District Judge may become infructuous and the petitioner may suffer prejudice which may not be adequately compensated at a later stage.

Accordingly for the ends of justice the order of status quo shall continue until disposal of Arbitration Miscellaneous Case Number 14 of 2026 by the District Judge.

The District Judge, Dhaka is directed to dispose of Arbitration Miscellaneous Case Number 14 of 2026 positively within two months from the date of receipt of this judgment

and order without granting unnecessary adjournment to either party save in exceptional circumstances.

It is made clear that the District Judge shall decide the case independently on its own merits and in accordance with law without being influenced by any observation made in this judgment except to the extent necessary for disposal of this Rule.

With the above observations and directions the Rule is disposed of.

Let a copy of this judgment be communicated to the Courts below forthwith.

Md. Ali Reza, J:

Naher-B.O.