

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

Writ Petition No. 12005 of 2023

In the matter of:

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

AND

In the matter of:

Md. Nazmul Hossain

... Petitioner

-Versus-

Government of Bangladesh and others

... Respondents

Mr. Md. Mamonor Rashid, Advocate

... For the respondent No. 3

Judgment on: 20.08.2026

Present:

Mr. Justice Sardar Md. Rashed Jahangir

And

Mr. Justice Md. Ziaul Haque

Sardar Md. Rashed Jahangir, J:

On an application under article 102 of the Constitution of the People's
Republic of Bangladesh, Rule Nisi was issued on 17.09.2023 as follows:

Let a Rule Nisi be issued calling upon the respondents to
show cause as to why the inaction of the respondent no. 2 in
disposing the petitioner's application dated 11.09.2023 in
exercising the power under section 49(1)(cha) of the Bank
Companies Act, 1991 for rescheduling the loan liabilities of the
petitioner (Annexure-A) and as to why the auction notice under
section 12(3) of the Artha Rin Adalat Ain, 2003 published in the
'Daily 'Azadi' Bangladesh" on 30.08.2023 for auction sale of the
petitioner's land (Annexure-C) should not be declared to be illegal,
without lawful authority and is of no legal effect and/or why such
other or further order or orders as to this Court may seem fit and
proper shall not be passed."

In the instant writ petition, the petitioner has challenged the publication of the auction notice in the daily 'Azadi' on 30.08.2023 purporting to be under section 12(3) of the Artha Rin Adalat Ain, 2003 for selling the scheduled mortgaged property in auction on 21.09.2023. On 13.09.2023 the writ petition was sworn in and on 17.09.2023, this Court was pleased to issue Rule Nisi in tandem with an interim order staying operation the auction notice.

Learned Advocate for the respondent No. 3 submits that the property could not be sold in auction due to the order of stay of this Court and the scheduled date of the auction i.e. 21.09.2023 has expired in the meantime and as such the impugned auction notice published on 30.08.2023 in the 'Azadi' purporting to be under section 12(3) of the Artha Rin Adalat Ain, 2003 has lost effectiveness and consequently the rule has become infructuous.

On perusal of Annexure- 'A' it appears that the petitioner filed an representation before the Bangladesh Bank for direction directing the lender-bank not to held the auction on due date under section 12 of the Artha Rin Adalat Ain, 2003. Since, the auction could not be taken place due to the order of stay. The subject matter of the Rule has become infructuous.

Considering the facts and circumstances of the case, the Rule is discharged as being infructuous.

No order as to cost.

The order of stay granted at the time of issuance of the Rule is hereby by recalled.

Communicate the order at once.

Md. Ziaul Haque, J:

I agree.