

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL APPELLATE JURISDICTION)

Present:

Mr. Justice S M Kuddus Zaman

And

Ms. Justice Tamanna Rahman Khalidi

*FIRST APPEAL NO. 361 OF 2014 with
CIVIL RULE NO.572(F) OF 2015*

Md. Anowar Hossain and another

....Appellants

-Versus-

House Building Finance Corporation, Zonal Office,
Rajshahi and another

... respondents

Mr. Sasti Sarker with

Ms. Lily Rani Saha, Advocates

.... For the appellants.

Mr. Md. Badruddoza, Senior Advocate with

Mr. Mohammad Shahidul Islam, Advocate

.... For the respondent No.1.

Mr. Hasibul Huq, Advocate

....For the respondent No.2.

Heard on 21.04.2026 and 04.05.2026.

Judgment on 05.05.2026.

S M Kuddus Zaman, J:

This First Appeal at the instance of the plaintiffs is directed against the judgment and decree dated 27.01.2014 passed by the learned Joint District Judge, 1st Court, Rajshahi, in Other Class Suit No.93 of 2010 dismissing the same.

In above First Appeal plaintiffs submitted a petition for an ad-interim order for restoration of their possession in the disputed

building which gave rise to Civil Rule No.572(F) of 2015. Above First Appeal and Civil Rule having arisen out of the identical matter those are heard together and being disposed of by this single judgment.

Facts in short are that Alhaj Din Mohammad was the rightful owner and possessor of disputed land who transferred the same to his two sons namely Md. Anowar Hossain and Md. Boni Israil by a registered deed of gift on 14.02.1984 who obtained loan of Taka 5,40,000/- in 1984 from respondent No.1 and constructed a three storied dwelling house. The installments of above loan having not paid in accordance with the terms of the loan agreement respondent No.1 filed Miscellaneous Case No.73 of 1994 to the Court of District Judge, Rajshahi for recovery of Taka 11,19,632/- which was decreed ex-parte with interest on 20.03.1995.

Decree holder respondent No.1 for execution of above decree filed Execution Case No.6 of 1997 to the District Judge, Rajshahi. The Artha Rin Adalat transferred the same to the Court of Artha Rin Adalat, Rajshahi who having failed to sale above house on auction issued certificate of ownership to respondent No.1 who sold above house to namely Hasneara Begum on 07.07.2010 and delivered possession on 18.09.2014.

Being aggrieved by and dissatisfied with above sale of the dwelling house above judgment debtors as plaintiffs filed above suit to the learned Joint District Judge, Rajshahi for cancellation of sale of

above dwelling house and restoration of possession or in the alternative if above house is found to be lawfully sold then plaintiffs be given surplus money after satisfying above decree.

Defendant No.1 entered appearance in above suit and submitted a petition under Order 7 Rule 11 of the Code of Civil Procedure for rejection of the plaint and the learned Joint District Judge rejected the plaint under Order 7 Rule 11 of the Code of Civil Procedure, 1908.

Being aggrieved by and dissatisfied with above judgment and decree of the learned Joint District Judge the plaintiffs as appellants moved to this Court and preferred this First Appeal.

Mr. Sasti Sarker, learned Advocate for the appellants submits that the appellants obtained loan of Taka 5,40,000/- from defendant No.1 and constructed a three storied building which was the only residential house of the defendants and this Court granted the appellants an opportunity vide Order dated 24.09.2014 for repayment of above outstanding loan by installments. Pursuant to above order the appellants deposited two installment but due to financial constraint they could not deposit the remaining installments. Above house was a valuable property but sold out to Hasneara Begum only for Taka 27,02,000/-. In this First Appeal the appellants should have sought stay of above execution case but due to error of the concerned Advocate of the appellants unnecessarily stay was sought of the proceedings of above suit which was dismissed by the trial Court. The plaintiffs filed

above suit for cancellation of sale of above dwelling house at a shockingly low price but the learned Joint District Judge failed to appreciate above materials on record and most illegally rejected the plaint under Order 7 Rule 11 of the Code of Civil Procedure, 1908 which is not tenable in law.

On the other hand Mr. Md. Bodruddoza, learned Senior Advocate for respondent No.1 submits that admittedly the plaintiffs obtained loan from respondent No.1 and constructed above three storied dwelling house but failed to pay installments of above loan in accordance with the terms of the loan agreement and respondent No.1 as petitioner filed Miscellaneous Case No.73 of 1993 which was decreed ex-parte on 20.03.1995. Respondent No.1 for execution of above decree filed Execution Case No.6 of 1997 to the District Judge, Rajshahi which was transferred to the Artha Rin Adalat, Rajshahi and the learned Judge of the Artha Rin Adalat issued certificate of ownership to respondent No.1 who sold out above dwelling house through competitive bidding to Hasnara Begum and handed over possession. The appellant has challenged above judgment and order of the Artha Rin Adalat by filing above Civil Suit in the Court of Joint District Judge, Rajshahi which is barred by Section 20 of the Artha Rin Adalat Ain, 2003. On correct appreciation of above facts and circumstances of the case and materials on record the learned Joint District Judge rightly rejected the plaint

under Order 7 Rule 11 of the Code of Civil Procedure, 1908 which calls for no interference.

Mr. Hasibul Huq, learned Advocate for the respondent No.2 adopts above submissions of the learned Advocate for respondent No.1 and submits that on correct appreciation of materials on record the learned Joint District Judge rightly rejected the palint which calls for no interference.

We have considered the submissions of the learned Advocates for the respective parties and carefully examined all materials on record.

It is admitted that disputed three storied dwelling house was constructed by the appellants by obtaining loan of Taka 5,40,000/- from respondent No.1 but failed to repay above loan in accordance with the terms of the loan agreement and respondent No.1 filed Miscellaneous Case No.73 of 1994 to the District Judge, Rajshahi which was decreed ex-parte and for realization of above decree respondent No.1 filed Miscellaneous Case No.6 of 1997 to the District Judge, Rajshahi which was transferred to the Artha Rin Adalat, Rajshahi who having failed to sale above property by auction issued a certificate of ownership to respondent No.1 and on the strength of above certificate of ownership respondent No.1 sold above house through a bidding process to Hasneara Begum on 07.07.2010 and delivered possession on 18.10.2014.

The plaintiffs have challenge above proceedings and order of the Artha Rin Adalat, Rajshahi by above Civil Suit under Section 42 of the Specific Relief Act, 1877.

The judgment or order of the Artha Rin Adalat cannot be challenged by filing a Civil Suit in a Civil Court since Artha Rin Adalat is a special Court established under a special law and the appellants should have proceeded to redress their grievances under the provision of Artha Rin Adalat Ain, 2003. Mr. Sasti Sarker learned Advocate for the appellants frankly concedes that the plaintiff approached a wrong forum in order to get legitimate relief against unlawful sale of their only dwelling house and they preserve the right to challenge the legality of above sale of the disputed house to the appropriate Court.

Section 20 of the Artha Rin Adalat Ain, 2003 clearly excludes the jurisdiction of a Civil Court to entertain any suit challenging the legality and propriety of any judgment or order passed by the Artha Rin Adalat. The provision of Section 20 of the Artha Rin Adalat Ain, 2003 is reproduced below:

২০। অর্থ ঋণ আদালতের আদেশের চূড়ান্ততা।- "এই আইনের বিধান ব্যতিরেকে, কোন আদালত বা কর্তৃপক্ষের নিকট অর্থ ঋণ আদালতে বিচারাধীন কোন কার্য ধারা বা উহার কোন আদেশ, রায় বা ডিক্রীর বিষয়ে কোন প্রশ্ন উত্থাপন করা যাইবে না, এবং এই আইনের বিধানকে উপেক্ষা করিয়া কোন আদালত বা কর্তৃপক্ষের নিকট আবেদন করিয়া কোন প্রতিকার দাবী বা প্রার্থনা করা হইলে, ঐরূপ আবেদন কোন আদালত বা কর্তৃপক্ষ গ্রাহ্য করিবে না।"

On consideration of above facts and circumstances of the case and materials on record and submissions of the learned Advocates for the respective parties and the provisions of Section 20 of the Artha Rin Adalat Ain, 2003 we hold that above civil suit of the appellants challenging the legality and propriety of the judgment and order of the Artha Rin Adalat was barred by Section 20 of the Artha Rin Adalat Ain, 2003 and the learned Joint District Judge on correct appreciation of above materials on record rightly rejected the plaint of above suit which calls for no interference.

In above view of the materials on record we are unable to find any illegality or irregularity in the impugned judgment and decree passed by the learned Joint District Judge nor we find any substance in this First Appeal which is liable to be dismissed.

In the result, the First Appeal is dismissed and the connecting Civil Rule being No.572(F) of 2015 is discharged.

However, there will be no order as to cost.

Send down the lower Court's record immediately.

Tamanna Rahman Khalidi, J:

I agree.