

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

WRIT PETITION NO. 5481 OF 2015

IN THE MATTER OF

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

-AND-

IN THE MATTER OF:

Kysun Suliao Industries Ltd. and another
... Petitioners

-Versus-

Artha Rin Adalat, Court No. 3, Dhaka
and another

... Respondents

No one appears

.....For the petitioners

Mr. Hossain Al-Amin, Advocate

..... For the respondent No. 2

The 07th day of December, 2023

Present:

Mr. Justice J.B.M. Hassan

and

Mr. Justice Razik-Al-Jalil

J.B.M. Hassan, J:

This Rule Nisi was issued in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why order No. 22 dated 26.02.2015 passed by the learned Artha Rin Adalat, Court No. 3, Dhaka in Artha Rin Execution Case No. 15 of 2011 arising out of Artha Rin Suit No. 56 of 2009 issuing warrant for arrest against petitioner under section 34(1) of the Artha Rin Adalat Ain, 2003 as reproduced/quoted in paragraph No. 5 of this writ petition shall not be declared to have been passed without any 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.”

None appears for the petitioners when the matter is taken up for hearing.

Mr. Hossain Al Amin, learned Advocate for the respondent No. 2 submits that although the petitioners took an order for making the repayment by four installments but they failed to repay the same due to which the warrant of arrest was issued and as such, there is no illegality in passing the impugned order.

We have gone through the writ petition, in particular, the grounds taken by the petitioner.

It appears that the petitioners were allowed to make the repayment within 04 (four) months. Therefore, they were under obligation to repay the installments within schedule time.

However, it appears from the order that the learned Judge, Artha Rin Adalat did not award any civil imprisonment and without doing so, he directly issued the warrant of arrest which is not tenable in law.

Accordingly, we find merit in the Rule Nisi.

In the result, the Rule Nisi is made absolute without any order as to costs. The order No. 22 dated 26.02.2015 passed by the learned Artha Rin Adalat, Court No. 3, Dhaka in Artha Rin Execution Case No. 15 of 2011 arising out of Artha

Rin Suit No. 56 of 2009 are hereby declared to have been passed without lawful authority and is of no legal effect.

However, the Bank is at liberty to file fresh application by swearing affidavit or verification seeking civil imprisonment stating reasons and the Adalat is at liberty to dispose of the same in accordance with law and the observations of this Court.

Communicate a copy of the judgment and order to the respondents at once.

Razik-Al-Jalil, J:

I agree.

S.I.B.O.