

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

WRIT PETITION NO. 6452 OF 2015
WITH
WRIT PETITION NO. 5626 OF 2024.

IN THE MATTER OF :

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

And

IN THE MATTER OF :

Muslin Textile Mills Ltd.

.....Petitioner of WP No. 6452 of 2015

Md. Hasan Shibly

.....Petitioner of WP No. 5626 of 2024

-VS-

Artha Rin Adalat No. 1, Dhaka and another

.....Respondents of both writ petitions

Mr. Md. Moniruzzaman, Advocate

.....For the petitioner of both writ petitions

Mr. Mohammad Salim Miah, Advocate

....for the respondent No. 2 of both writ petitions

Present :

Mr. Justice Zafar Ahmed

And

Mr. Justice Sardar Md. Rashed Jahangir

Heard and Judgment on: 15.07.2024.

Zafar Ahmed, J.

Subject matter of the Rules issued in both the writ petitions is same.

They are heard together and disposed of by this common judgment.

In Writ Petition (WP) No. 6452 of 2015, Rule Nisi was issued on 08.07.2015 calling upon the respondents to show cause as to why order No. 37 dated 02.06.2015 passed by the Artha Rin Adalat No. 1, Dhaka in the Artha Rin Suit No. 62 of 2012 recording the deposition of the PW1 while rejecting the application dated 02.06.2015 filed by the petitioner for

adjournment (Annexure-F) should not be declared to have been passed without lawful authority and is of no legal effect.

At the time of issuance of the Rule, this Court passed an interim order staying operation of all further proceedings of Artha Rin Suit No. 62 of 2012 for a period of 2 months which was lastly extended on 26.06.2023 for a period of 6 months. Thereafter, the matter appeared in the daily cause list but the files could not be found. As a result, the period of stay could not be extended. Meanwhile, the Artha Rin Adalat, vide order dated 23.04.2024 fixed 14.05.2024 for submitting order of this Court failing which judgment of the Artha Rin Suit would be pronounced. In the Circumstances, 2nd writ petition (WP No. 5626 of 2024) was filed by the Managing Director of the petitioner company.

In WP No. 5626 of 2024, Rule Nisi was issued on 13.05.2024 calling upon the respondents to show cause as to why order dated 23.04.2024 passed by the Artha Rin Adalat No. 1, Dhaka in Artha Rin Suit No. 62 of 2012 fixing the next date for submitting the order regarding extension of the period of stay passed in Writ Petition No. 6452 of 2015, in default delivery of judgment (Annexure-C) should not be declared to have been passed without lawful authority and is of no legal effect.

This Court also passed an interim staying operation of all further proceeding of Artha Rin Suit No. 62 of 2012.

The respondent No. 2 contested the Rules by filing affidavit-in-opposition.

The Artha Rin Suit was filed on 25.04.2012 against three defendants. The defendant No. 1 is Muslin Textile Mills Ltd. and petitioner of WP No. 6452 of 2015. The company is the borrower. The defendant No. 2 is the Managing Director of the company who is the petitioner of WP No. 5626 of 2024 (2nd writ petition). The defendant No. 3 is the director of the borrower company.

It appears from the materials on record that the suit was filed on 25.04.2012. The defendant Nos. 1 and 2 have already filed a joint written statement in the suit on 22.10.2012. The defendant No. 3 filed written statement on 20.03.2013. It further appears that the plaintiff bank has examined PW1 who has not been cross examined. The proceeding of the case was stayed by this Division, the period of which was lastly extended on 26.06.2023 for a period of 6 months. The Adalat, vide order dated 23.04.2024 fixed 14.05.2024 for submitting this Court's order, in default, delivery of judgment. Considering the facts and circumstances of the case, the concerned Artha Rin Adalat is directed to withdraw the case from delivery of judgment. The Adalat is further directed to give an opportunity to the defendants to cross examine the PW1. The plaintiff is at liberty to examine further witnesses, if so advised, and the defendants must be given an opportunity to cross-examine those PWs, if any. Defendants shall also be given an opportunity to examine defence witnesses, if any. However, the whole exercise shall be done within the period of 6 months from the date of receipt of the judgment. No adjournment shall be given to either parties.

With the above observations and directions, the Rules are disposed of.

Sardar Md. Rashed Jahangir, J.

I agree.