

Artha Rin Suit No. 327 of 2025

Bangladesh Form No. 3701

HIGH COURT FORM NO.5 (2)

HEADING OF JUDGMENT IN ORIGINAL SUIT/CASE

DISTRICT- DHAKA

IN THE COURT OF ARTHA RIN ADALAT NO. 6, DHAKA

Present : Mr. Md. Hasan Zaman,
Judge (Joint District Judge)

Date of Judgment : 2^{3rd} day of September, 2025

Artha Rin Suit No. 327 of 2025

Dutch Bangla Bank Limited

New Market Branch, DhakaPlaintiff

-Versus-

Md. AbdulGofur Babul and OrsDefendants

This case came up for final hearing on 09.10.2024, 05.05.2025, and 04.09.2025.

In presence of :

Mr. Monjur Elahi PoragAdvocate for Plaintiff.

Mr. Bithika MukherjeeAdvocate for Defendants.

And having stood for consideration to this day, the court delivered the following judgment:-

The plaintiff Bank filed this present suit under the **Artha Rin Adalat Ain, 2003** for recovery of **Tk. 40,73,120 (Taka Forty Lacs Seventy-Three Thousand One Hundred Twenty only)** as on **15.07.2023**.

The suit was filed on 20.07.2023 before the **Artha Rin Adalat No. 1**, Dhaka, being registered as **Artha Rin Suit No. 700 of 2023**. Subsequently, by order dated 19.06.2025 passed by the learned District Judge, Dhaka the said suit was transferred to this Court, where it has been re-registered as **Artha Rin Suit No. 327 of 2025**.

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Plaintiff's Case in Brief

1. The plaintiff, **Dutch-Bangla Bank Limited**, is a banking company duly incorporated under the Companies Act, 1994 and governed by the provisions of the Bank Companies Act, 1991. The defendant No.1 is the borrower, mortgagor & guarantor while the defendant No.2 and 3 are guarantors of the credit facilities availed of by defendant No.1 from the plaintiff bank.
2. At the request of defendant No.1, the plaintiff bank sanctioned a loan facility in the form of **i) Cash Credit "Lean Den" limit of Tk 1.5 million, ii) Term Loan "Somridhi" of TK.2.00 million, of Total TK. 3.50 Million** by taking over composite loan limit of Tk. 2.40 Million (Present Outstanding TK.1.553 million) from BRAC Bank Ltd in favor of the defendant No.1 vide Sanction letter dated 25.02.2019, sanction advice No.0386 and later upon the application of defendant No.1 the plaintiff bank sanctioned Renewal of Cash Credit "Lean Den" limit of TK.1.50 million on account of New Bulbul Garments in favor of defendant No.1 vide its sanction letter dated 21.10.2020 sanction advice No.2860.
3. The defendant No.1 accepted all sanction letters along with the terms and conditions stipulated therein and executed various charge documents in favor of the plaintiff bank. As security for the aforesaid investment facilities, the defendant Nos.1 executed a registered Deed of Mortgage **being No. 2208 dated 04.04.2019** and a registered Irrevocable General Power of Attorney **being No. 2209 dated 04.04.2009**, empowering the plaintiff bank to sell the mortgaged property described in the schedule for realization of its dues. The defendant No.1 also executed a letter of **Hypothecation dated 18.03.2019 and an Irrevocable Power of Attorney** to sell the Hypothecated properties dated 18.03.2019 in favor of the Plaintiff Bank.
4. The plaintiff bank duly disbursed the sanctioned investment facilities which were availed of and enjoyed by the defendant No.1 in the course of its business activities. However, the defendants, with mala fide intent, failed to repay the investment amounts within the stipulated periods. Despite repeated requests, reminders, and letters from the plaintiff bank, the defendants neglected and failed to adjust the outstanding liabilities.
5. As on **15.07.2023**, the total liabilities of the defendants stood at Tk. **Tk. 40,73,120/- (Taka Forty Crore Seventy-Three Thousand One Hundred Twenty only)** inclusive of accrued interest. Although on several occasions the defendants acknowledged their liabilities, they deliberately failed to make payments. Consequently, the plaintiff issued a **Legal notice** dated 27.04.2023, however, the defendants failed to comply with the said notice and did not contact the plaintiff bank in this regard.

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6. The plaintiff bank could not realize its dues by selling the mortgaged property prior to filing the present suit as no potential auction participants turned up to make the bid. The defendants' communications and conduct have made it evident that they will not settle the outstanding liabilities unless compelled by due process of law. As of 15.07.2023, the admitted liability of the defendants stood at **Tk. 40,73,120/-**. Having failed in all attempts to recover its dues amicably, the plaintiff bank has compelled to file this instant suit.

Defendant's Case :

7. **Defendant No.1 contested the suit filing Written Statement contending inter alia that** the defendant Md Abdul Gofur is the proprietor of "New Babul Garments" which availed a credit facility (C.C Loan) of TK 15 Lacs and a Term loan of TK. 20 Lacs of Total 35 Lacs in the year 2019 from the plaintiff bank. The defendant asserts that after availing the loan facilities, he paid of Total 13,27,772/- to the plaintiff on various occasions. Thereafter his business falld down due to covid pendamic. It is admitted, however, that on 04.04.2019 the defendant created mortgage by deposit of title deeds and executed an irrevocable power of attorney in favour of the plaintiff bank in respect of the scheduled property. The defendant will have no objection in case of selling the mortgaged property for adjustment of total liabilities of the defendant. The defendant has been passing deplorable life along with the family members. He has no mala fide intention to misappropriate the loan amount. In view of the above facts, the defendant prays that the instant suit be dismissed with costs.

Issues:

8. The following issues has been framed for proper adjudication of the case :
- 1) Whether the suit is maintainable in it's present form and prayer?
 - 2) Whether the plaintiffs have any cause of action for filing the suit ?
 - 3) Whether the suit is barred by Limitation ?
 - 4) Whether the plaintiff Bank is entitled to recover the claimed amount from the defendant?
 - 5) Whether the plaintiff Bank is entitled to obtain a decree as prayed for?

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Discussions and Decisions:

9. To prove the plaint case, the plaintiff examined 01 witnesses namely **Raju Ahmed as P.W.1** before this court. **During examination of P.W.1** the following documents were produced and proved, which have been marked as Exhibits:-

1) Letter of Authority	Exhibit-1
2) Sanctioned Letters 02 Nos	Exhibit-2 series
3) Charged Documents	Exhibit-2(2)-2(24)
4) Letter of Guarrantee	Exhibit-2(25)-2(27)
5) Mortgage deed dated 04.04.2019 and IPOA	Exhibit-3, 3(1)
6) Auction Advertisement	Exhibit-4 , 4(1)
7) Legal Notice and Postal receipt	Exhibit-5
8) Bank Statement	Exhibit-6

10. On the other hand, to prove the defendant's case, the defendants examined **01** witnesses namely **Md Abdul Gofur Babul as D.W.1** before the court. During examination of **D.W.1**, no documents were exhibited.

Decision with Reasons

11. **Soleman Badsha (P.W.1)** for the plaintiff and **Md Rafiqul Islam Faruk (D.W.1)** for the defendants has given statements admitting the facts of the plaint and written statements respectively.

12. Issue no. 1, 2 and 3

Whether the suit is maintainable in it's present form and prayer?

Whether the plaintiffs have any cause of action for filing the suit ?

Whether the suit is barred by limitation?

All these issues are taken up together for the sake of brevity and convenience.

Upon careful consideration of the plaint, the written statement and the evidences appearing on record, it appears that although the defendants challenged the

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maintainability of the suit, they have not adduced any evidence in support of such objection. On the other hand, the plaintiff is a duly incorporated banking company under the Companies Act, 1994 and, being a financial institution, is lawfully entitled to institute a suit for recovery of its dues under the provisions of the Artha Rin Adalat Ain, 2003. The plaint has been presented by way of affidavit as mandated under **Section 6(4) of the said Ain**, duly accompanied by **ad valorem court fees** and relevant charge documents. No legal infirmity is discernible in the presentation of the plaint. Therefore, the suit is clearly maintainable both in law and in fact. This issue is thus decided in favour of the plaintiff.

13. As regards the cause of action, the plaint sufficiently discloses grounds for bringing the instant suit. It appears from the plaint that, upon the application of the defendants, the plaintiff bank sanctioned credit facilities in favour of the defendant's proprietorship concerns namely **New Babul Garments**. The said facilities were secured by execution of charge documents and mortgage of immovable property. The facilities were subsequently rescheduled from time to time. However, the defendants defaulted in repayment of loan installments as per terms of the sanction letters. The default persisted and the outstanding liabilities accumulated to the tune of **Tk. 40,73,120/-**. Despite repeated reminders, the defendants failed to discharge the said liabilities. Ultimately, the plaintiff issued a legal notice on 27.04.2023 through its learned advocate, calling upon the defendants to adjust the outstanding dues. The defendants, however, did not comply. The plaintiff thereafter attempted to realize its dues through auction of the mortgaged property, but the attempt proved unsuccessful. Having no other efficacious remedy, the plaintiff was compelled to institute the present suit. The cause of action thus arose on and from 27.04.2023, and the instant suit having been filed on 20.07.2023, is well within the statutory period of limitation. In view of the above, it is held that the instant suit is properly maintainable, is founded upon a sufficient cause of action, and is not barred by limitation. All the aforesaid issues are therefore answered in favour of the plaintiffs.

14. Issue No : 4 and 5

Whether the plaintiff Bank is entitled to recover the claimed amount from the defendant?

Whether the plaintiff Bank is entitled to obtain a decree as prayed for?

All these issues are taken up together for the sake of brevity and convenience. On perusal of the plaint schedule, it appears that the plaintiff **Dutch-Bangla Bank Limited** has claimed against the defendants a sum of **Tk. 40,73,120/-** inclusive of accrued interest up to 15.07.2023. Admittedly the plaintiff is a banking company duly incorporated under the

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Companies Act, 1994 and is governed by the provisions of the Bank Companies Act, 1991. It is also admitted that defendant No. 1 is the proprietor and owner of the business concerns **M/s New Babul Garments as well as the borrower, Mortgagor and Guarantor** and the defendant Nos. 2 and 3 stand as guarantors respectively in respect of the credit facility availed by the defendant No.1 from the plaintiff bank.

15. The plaintiff has sought recovery of **Tk. 40,73,120/-** as outstanding as on 15.07.2023. In terms of Section 6(4) of the Artha Rin Adalat Ain, 2003, a plaint filed with an affidavit is admissible as substantive evidence. In further support of its claim, the plaintiff examined **Raju Ahmed as P.W.1**, who duly deposed in line with the plaint and corroborated the documentary evidence submitted therewith.

16. From the loan related documents submitted by both parties it appears that on request of the Defendant No.1, the Plaintiff Bank, sanctioned a loan facility in the form of **i) Cash Credit “Lean Den” limit of Tk 1.5 Million, ii) Term Loan “Somridhi” of TK.2.00 Million, of Total TK. 3.5 Million or 35.00 Lacs** by taking over composit loan limit of Tk. 2.40 Million (Present Outstanding TK.1.553 million) from BRAC Bank Ltd in favor of the defendant No.1 vide Sanction letter dated 25.02.2019. The loan Sanction Letter dated **25/02/2019 ([Exhibit-2])** proves the facts to be true. Pursuant to an application, the Plaintiff Bank, by Sanction Letter dated 21/10/2020 **[Exhibit-2(1)]**, granted Renewal of **Cash Credit “Lean Den” limit of TK.1.50 million** on account of New Bulbul Garments in favor of defendant No.1.

17. The defendant’s witness D.W.1 did not deny the receipt of the said loan facilities during cross-examination.

18. Upon overall review, it is evident that the Defendant No.1 had availed **Tk. 35,00,000/-** from the Plaintiff Bank as the latest sanctioned loan facility. In view of charge documents **[Exhibit-2(2)-2(27)]**, mortgage deeds **[Exhibit-3]**, and the irrevocable power of attorney **[Exhibit-3(1)]** corroborates the authenticity of the loan facilities availed by the Defendant No.1. Considering these, it is established that Defendant No.1 availed the said loan from the Plaintiff Bank in the name of his concern **M/s New Babul Garments**.

19. From “ legal notice” issued by the Plaintiff Bank **[Exhibit-5]**, it is evident that Defendant No.1, after receiving the aforesaid loan facility, subsequently defaulted in repayment. A review of the Legal Notice **[Exhibit-7]** shows that as of 16/04/2023, the total amount due to the Plaintiff Bank, including interest/profit, was **TK. 38,75,500.58**. Thereafter at the time of filing the suit, the Plaintiff claimed a total of **40,73,120/-** up to 15/07/2023, which included both imposed and un-imposed profits across the accounts.

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Examination of the account statement of **M/s New Babul Garments** submitted by the Plaintiff [Exhibit-6] indicates that, as of 15/07/2023, the total liability of Defendant No.1 to the Plaintiff Bank, stood at TK. **40,73,120**.

20. According to the testimony of D.W.1, it appears that after availing the loan facilities, the defendant No.1 paid of Total 13,27,772/- to the plaintiff on various occasions. But in support of this claim he submitted no documents. The defendant No.1 asserted that his business falld down due to covid pendamic. However, he has no objection in case of selling the mortgaged property for adjustment of total liabilities due to the plaintiff bank. He has no other means except the mortgaged property to adjust his liabilities due to the plaintiff Bank. He has no mala fide intention to misappropriate the loan amount.

21. Considering all the above circumstances, it is observed that Defendant No.1, availed the credit facility in question from the plaintiff bank. Thereafter he being unable to pay the loan installment on time, his loan became classified. Therefore, the outstanding liability of Defendant No.1 reached to TK. **40,73,120 as on 15.07.2023. It appears that** During pendency of the suit, he paid not a single penny in favor of the plaintiff bank.

22. Upon overall review, it is evident that the Plaintiff Bank, through sufficient documentary and oral evidence, has been able to prove its claim before this Court. In this context, considering that among the three Defendants, Defendant No.1 is the principal borrower, and Defendants No.2 and No.3 are the guarantor respectively, under Section 6(5) of the Artha Rin Adalat Ain 2003, Defendants No.2 and No.3 are jointly and severally liable with Defendant No.1 for the repayment of the Plaintiff Bank's claim.

23. Therefore, upon examining the Plaintiff's plaint, written statements, witness depositions, cross-examination, and documentary evidence, it is established that the Plaintiff Bank has a legal entitlement to recover TK. **40,73,120** from the Defendants. Consequently, the Plaintiff Bank has successfully proven its claim partially through its evidence and is entitled to legal relief. In view of the above discussion, Issues No.4 and 5 are accordingly decided in favor of the Plaintiff Bank.

In result the case succeeded.

Court fee paid is correct

Hence,

It is Ordered

That the present suit be decreed on contest against Defendant Nos. 1–3 with costs for an amount of **Tk. 40,73,120 (Taka Forty Lacs Seventy-Three Thousand One Hundred**

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Twenty only) up to 15/07/2023. The Plaintiff shall be entitled to receive the said amount together with interest or profit as applicable under the prevailing laws or rules from **20/07/2023**, i.e., the date of filing of the suit, until full realization.

The Defendants are directed to pay the decree amount, together with interest or profit, in favor of the Plaintiff within sixty (60) days of the pronouncement of this judgment. In the event of default, the Plaintiff shall be entitled to recover the decree amount through lawful proceedings before the Court.

If the Defendants have made any payments during the pendency of the suit, the Plaintiff is directed to adjust the same in accordance with the law.

Typed & Corrected by Me

**Md. Hasan Zaman
Judge (Joint District Judge),
Artha Rin Adalat No-6 ,Dhaka**

**Md. Hasan Zaman
Judge (Joint District Judge),
Artha Rin Adalat No-6 ,Dhaka.**