

**Present : Md Hasan Zaman , Judge, Artha Rin Adalat No.1, Dhaka**

Order no-13  
Dt-11.03.2026

Today is fixed for maintainability hearing of the present Misc case in presence of both parties.

The petitioner is present by filing hazira. On the other hand the OP Bank despite of seen the petition are found absent at the time of hearing.

The Defendant No.1/petitioner has moved an application under section 19 (sub-sections (2) and (3)) of Artha Rin Adalat Ain 2003, for the relief of setting aside the Ex-party decree dated 03.09.2024 which was passed by this court in **Artha Rin Suit No. 1393 of 2024** against them.

From the material on record, it appears that the original suit **bearing No. 1393/2024** was decreed ex parte on 03.09.2024. Learned Advocate for the petitioner asserts that he first became aware of the ex parte decree on 11.01.2026. Within thirty (30) days from such knowledge, on 10.02.2026, he presented the present miscellaneous application and deposited 10% of the decretal amount by **pay-order No. 9003185** amounting to Tk. **1,90,075/-** as required by Section 19(3) of the Act.

Section 19 of the Act provides a mechanism to protect the substantive rights of parties who were absent or otherwise prevented from defending proceedings culminating in an ex parte decree, by permitting such parties to apply to set aside the decree upon satisfying certain statutory conditions — in particular, the promptness of application after knowledge of the decree and the deposit of 10% of the decretal amount where so required by the relevant sub-section. The statutory purpose is twofold: to balance finality in litigation with the requirement of access to justice and to deter dilatory or oppressive applications by requiring a monetary undertaking.

There is no dispute that the application under challenge was presented within thirty (30) days from the date the applicants learned of the ex parte decree (knowledge dated 11.01.2026; application dated 10.02.2026). The applicant has produced documentary evidence of the pay-order for 10% of the decretal amount (PO No. **No. 9003185** for Tk. **1,90,075/-**), which has been accepted by the Court and placed on record. The deposit thus complies with the mandate of Section 19(3) as averred.

The Court notes that, although the decree was passed on 03.09. 2024, the applicant did not become aware of the decree until 11.01.2026— a period of some **01 year 04 month and 08** days only. However, the statutory enquiry is not principally concerned with mechanical delay between decree and

knowledge of decree; rather the critical questions are (i) whether, upon learning of the decree, the applicants promptly sought relief and (ii) whether they have shown a bona fide intention to contest the suit on merits. The materials before the Court, including the application, the counsel's submissions and the deposit of 10% of the decretal amount, satisfy the Court that the applicant acted promptly upon knowledge and intend to contest the claim on merit. Having paid the statutory deposit and having shown a prima facie case of intention to contest, the delay between decree and discovery of the decree is of no decisive prejudice to justice in this case. The cornerstone of civilized adjudication is that disputes are decided after both sides have had an opportunity to present their cases. Allowing the applicant to contest the matter on its merits will advance the cause of justice and will not occasion any undue prejudice to the opposite party which can be remedied by directions as to service and expeditious progression of the suit. In contrast, refusing restoration in circumstances where statutory requirements have been complied with would cause irreparable prejudice to the applicants' right to be heard.

Having considered the pleaded facts, the documentary evidence (including the pay-order), the arguments advanced by learned counsel and the relevant statutory provision, the Court is satisfied that: (a) the application was filed within thirty (30) days of the applicants' knowledge of the ex parte decree, and (b) the applicants have deposited the amount required under Section 19(3) of the Act. In the exercise of the Court's discretion and in the interest of justice, the application for setting aside and vacating the ex parte decree and for restoration of the original suit must be allowed.

**Hence**

**It is Ordered**

that the present Misc Case dated 10.02.2026 brought by **Mr. Glensteve Nicholas Gonsalves** under Section 19(2) of the Artha Rin Adalat Ain, 2003 for setting aside the ex parte decree is **allowed**.

Thus the ex parte judgment and decree dated **03.09. 2024 and 05.09.2024** passed in Artha Rin Suit No. **1393 of 2024** against the applicants is hereby **set aside**.

**The Artha Rin Suit No. 1393 of 2024** is **restored** to the file and the case shall stand revived to the stage of filing of written statement by the defendants (i.e., the present applicant).

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The pay-order No. **No. 9003185** for Tk. **1,90,075/-** /- (representing 10% of the decretal amount) produced by the applicant is taken on record in compliance with Section 19(3) of the Act. The deposit shall remain in the court custody and be dealt with in accordance with law at the time of final disposal of the suit; any entitlement to refund or adjustment will be determined by the Court at any stage in accordance with law.

Serestader is directed to act on this order forthwith and communicate the same to the parties in the usual manner.

To-----for filing of W/S.