

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

Order No. 17
Dated-08.03.2026

Today is fixed for necessary order on the application filed by the judgment-debtor (JD) praying for cancellation of the certificates issued on 27.07.2022 and 23.03.2023 in favour of the decree-holder bank and for a direction upon fresh valuation of the scheduled mortgaged property with liberty to the JD to sell the same for adjustment of the decretal dues.

The Decree holder and the Judgment debtor has filed hazira.

Now the record is taken up for necessary order.

Heard the learned Advocate for the judgment debtor and the learned Advocate for the decree-holder bank at length. Perused the application and the entire records.

It appears from the record that the decree-holder bank instituted Artha Execution Case No. 264 of 2021 for realization of Tk. 62,25,881/-. The mortgaged property of the JD was put into auction but the same having failed, a certificate under section 33(5) of the **Artha Rin Adalat Ain, 2003** was lawfully issued on 27.07.2022 in favour of the decree-holder bank for taking possession of the mortgaged property. Subsequently, the bank took steps in accordance with law and proceeded further with realization process. The contention of the JD is that the valuation of the mortgaged flat has been shown at Tk. 52,03,320/- which is allegedly much lower than the prevailing market value, and as such the certificates should be cancelled and the JD should be allowed to sell the property at a higher price.

This contention does not merit consideration.

Firstly, once a certificate under section 33(5) of the **Artha Rin Adalat Ain, 2003** has been issued upon failure of auction, the

enjoyment and possession of the mortgaged property legally vest in the decree-holder bank, and the scope of interference by this Court becomes very limited. The law does not provide any provision for cancellation of such certificate at the instance of the judgment debtor on the ground of alleged undervaluation.

Secondly, the process adopted by the decree-holder bank, including valuation and subsequent steps, falls within the statutory framework of the Ain. The judgment debtor, having failed to discharge the decretal dues within the time allowed and the auction having failed, cannot subsequently claim a right to re-enter the process and seek permission to sell the property independently, which would defeat the very object and scheme of the special law.

Thirdly, the allegation of arbitrary or fictitious valuation is a disputed question of fact and, in any event, does not invalidate the statutory consequence already achieved under section 33(5). The Ain does not contemplate reopening of the concluded stage of certificate issuance on such grounds.

It is also settled that proceedings under the **Artha Rin Adalat Ain, 2003** are special in nature and are to be conducted strictly in accordance with the provisions of the said law. Any deviation allowing the judgment debtor to regain control over the mortgaged property after issuance of certificate would frustrate the expeditious recovery mechanism intended by the legislature.

In view of the above facts and circumstances, I find no legal basis to allow the prayer of the judgment debtor.

Hence,

It is Ordered

That the application dated 27.11.2024 is hereby rejected.

To-----for step by the D/H.