

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

Order No- 26

Date- 01.03.2026

Today is fixed for further cross-examination of P.W.2, with a clear stipulation in the previous order that in default of cross-examination, the opportunity shall stand closed.

The plaintiff is present by filing hazira. Defendant No.4 is also present by filing hazira. Defendant No.1 has filed a petition praying for adjournment on the ground of alleged illness of his learned Advocate.

At this stage, defendant No.2 has filed an application under Section 45 of the Evidence Act read with Section 57 of the Artha Rin Adalat Ain, 2003 seeking examination of her alleged signature appearing in the charge documents by a handwriting expert.

The record is taken up for hearing of the said petition.

Learned Advocate for defendant No.2 submits that defendant No.2 had no connection whatsoever with the loan transaction in question; that she is neither mortgagor, nor personal guarantor, nor signatory to any charge document; and that her name and signature were fraudulently used in the charge documents by bank officials. On such assertion, prayer has been made for expert examination of the disputed signatures.

On the other hand, learned Advocate for the plaintiff vehemently opposes the petition and submits that the instant application has been filed with mala fide intention solely to protract the disposal of the suit. It is further submitted that the suit is of the year 2013 and has already reached an advanced stage of trial, therefore no further delay ought to be permitted.

Heard learned Advocates of both sides, perused the petition, objection and the materials on record.

It appears from the record that the suit was instituted on 01.12.2013 for recovery of defaulted loan and is presently at the stage of further cross-examination of P.W.2. At such an advanced stage, defendant No.2 has come forward with the present petition seeking forensic examination of signatures appearing in the charge documents.

The record further reveals that defendant No.1, namely Mustafizur Rahman, is the principal borrower and defendant No.2 is his spouse. The charge documents on

record contain the signature attributed to defendant No.2. No satisfactory explanation has been offered as to why such objection was not raised at the earliest stage of the proceeding, nor why the present prayer has been brought after substantial progress of the trial.

This Court is of the considered view that where a party remains silent for a prolonged period and raises such objection only at an advanced stage of trial, such conduct inevitably casts serious doubt upon the bona fide nature of the application. Mere denial of signature, without prompt challenge and without any cogent supporting material, cannot justify reopening of the evidentiary process through expert examination at this belated stage.

Moreover, the timing of the application unmistakably suggests an attempt to delay the conclusion of a long-pending suit, which is contrary to the spirit and object of the Artha Rin Adalat Ain, 2003 requiring expeditious adjudication of loan recovery matters.

Accordingly, this Court finds no legal justification to invoke Section 45 of the Evidence Act at this stage and no necessity for referring the disputed signatures to handwriting expert.

Hence, the petition filed by defendant No.2 is **hereby rejected**.

So far as the time petition filed by defendant No.1 is concerned, the same is not supported by any medical certificate or convincing documentary proof. Mere assertion of illness without substantiation cannot constitute sufficient ground for adjournment, particularly when the matter has already been fixed specifically for further cross-examination.

Therefore, the time petition filed by defendant No.1 is also **hereby rejected**.

In view of the previous order of this Court, and since the defendants failed to cross-examine P.W.2 despite opportunity having been granted, the **cross-examination of P.W.2 stands closed**.

Let the case be fixed on _____ **for defendant's evidence / D.W.**

Later on, the defendants No.1 has filed another petition for seeking time to approach to the HCD challenging the order of the above order.

Heard and Considered. The petition is allowed partly.

For ends of just this suit is adjourned for more 20 days.

To _____ for defendant's witness.

D/C by me

Md Hasan Zaman
Judge
Artha Rin Court No-1, Dhaka

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Judge
Artha Rin Court No-1, Dhaka

Present : Md Hasan Zaman, Judge, Artha Rin Court No.6 Dhaka

Order No- 41

Date- 19.11.2025

Today is fixed for cross-examination of P.W.1 and hearing of the petition dated 20.07.2023 filed by defendant No.2 under Order I Rule 10 of the Code of Civil Procedure read with Section 57 of the Artha Rin Adalat Ain, 2003 seeking his name to be struck out from the array of defendants.

The plaintiff files Hazira. Defendant Nos.1 and 2 are also present by filing Hazira. The record is taken up for hearing of the said petition.

Learned Advocate appearing for defendant No.2 submits that the loan facilities in question were sanctioned in favour of defendant No.1 company at a time when defendant No.2 was not the Managing Director. It is further submitted that defendant No.2 served only as a paid employee; he never held any share of defendant No.1 company and did not execute any personal guarantee or mortgage in favour of the plaintiff bank. Since he was neither a borrower nor guarantor nor mortgagor, he is not liable under **Section 6(5) of the Artha Rin Adalat Ain, 2003** and hence his name ought to be stricken out from the suit.

Per contra, learned Advocate for the plaintiff opposes the petition and contends that defendant No.2 was the Managing Director of defendant No.1 company during the material period of renewal and enhancement of the loan facilities. Being the person responsible for the company's affairs and having executed several loan-related documents, his presence is necessary for proper and effective adjudication of the dispute.

I have heard the learned Advocates for both sides, perused the petition, pleadings, loan documents annexed with the plaint, and the record of the case. The point for determination is whether defendant No.2 is a necessary party to the present Artha Rin Suit.

From the plaint and documents on record, it appears that defendant No.1 is a private limited company and defendant No.2 acted as its Managing Director during the relevant time. The credit facilities in question were renewed in July 2018 and 2019, and the sanction letters bear the signature and seal of defendant No.2 in his capacity as Managing Director. The record further shows that defendant No.2 executed several charge documents, including the Letter of Continuity and the Deed of Negative Pledge, which were furnished to secure the loan availed by defendant No.1 company. These documents demonstrate that defendant No.2 was directly involved in negotiating, accepting, and operationalising the loan transactions on

behalf of the company and thereby played a material role in the creation and continuation of the liability in question.

In view of these facts, it cannot be said that defendant No.2 is a mere employee unrelated to the loan transaction. His acts and signatures form part of the very foundation of the plaintiff's claim. For complete and effective adjudication of the dispute and in order to avoid multiplicity of proceedings, his presence in the suit is necessary. Therefore, the petition seeking stricken out of his name does not merit consideration.

Hence

It is Ordered

That the petition dated 20.07.2023 filed by defendant No.2 under Order I Rule 10 CPC read with Section 57 of the Artha Rin Adalat Ain, 2003 is hereby rejected. Defendant No.2 shall remain on record as a proper and necessary party to the suit.

To -----2025 for Cross examination of P.W.1. The defendants is directed to make the cross i.d lawful order.

D/C by me

**Md Hasan Zaman
Judge
Artha Rin Court No-6, Dhaka**

**Md Hasan Zaman
Judge
Artha Rin Court No-6, Dhaka**

Today is fixed for framing of issues and hearing of the petition filed by defendant No.7-10 and defendant No.18/19.

The plaintiff files Hazira. The defendant No.3/7-10/5-6are also present by Hazira.

Now the record is taken for hearing of the petition filed by the defendant No.7-10.

The defendant No.7-10 has filed a petition under Order 1 Rule 10 of the CPC read with section 57 of The Artha Rin Adalat Ain 2003 for striking out the name of the defendant no.7-10 from the plaint of the present suit.

Learned Advocate for the defendant No.7-10 submits that the defendant/petitioners are merely a shareholder of the defendant No.1 company. They were neither a borrower , nor a guarantor and not even a mortgagor in connection with the loan availed by the defendant No.1 company. For this the defendant no.7-10are not liable for repayment of the loan in as much as it does not come within the purview of section 6(5) if the Ain. It is further stated that the plaintiff in order to harass the defendant socially and economically inflicted this defendant in this suit which is tantamount to abuse of process of the court.

In support of contention Ld advocate cited decision of the case of **Mahbub Ali vs Judge, Artha Rin Adalat & Others reported in 6SCOB, Bakul Akter vs Banglades and Ors reported in 16BLC (AD) 2011 and decision of Writ Petition**

No 3029 of 2019 Singtel Asia Pacific Investment Pvt. Ltd and ors vs Ministry of Law and Parliamentary Affairs reported in 21 ALR (HCD) 2011.

On the other hand, the Ld advocate for the plaintiff opposing the petition submitted that the petitioners are necessary party in the Artha Rin Suit since they are shareholders of the defendant No.1 company which availed the credit facilities. Ld Advocate asserted that Company is a Juristic person and it's directors and shareholders are natural persons who are personally liable for all liabilities of the Company. Ld advocate submits that the presence of the petitioners are necessary in order to effectually and completely adjudicated the Artha Rin Suit. Hence the petition deserves to be rejected.

Heard Ld Advocate for both the parties and perused the materials on record including the petition and have gone through the decisions referred to by the ld advocates.

The only questions that scurvies for determination is whether the petitioners are necessary party in the present Artha Rin suit or whether their presence are necessary to effectually and completely adjudicate the matter in issue involved in the suit.

In paragraph 2 of the plaint it has clearly been stated that the defendant No.7-10 are shareholders of the defendant No.1 company which availed the credit facilities. It has been claimed in the plaint that the petitioners being shareholders are equally liable with the principle borrower (Defendant No.1) and as such they were made party in the suit. From the plaint it does not appear that the petitioners ever executed any charge document, including a personal guarantee to secure the loan liability of the borrower company. It further appears that the petitioner are neither a borrower nor a guarantor or even a mortgager relating to the loan liabilities. Therefore they are not liable for the repayment of loan since the petitioner does not come within the purview of subsection 6(5) of the Ain 2003 wherein who will be the necessary party in an Artha Rin Suit has been provided.

Considering the facts and circumstances of the in hand and the reported decision I find a good deal of force in the submission of the Ld Advocate for the petitioners that defendant No.7-10 being not a borrower or mortgagor or guarantor, is a necessary party in the Artha Rin Suit.

Hence

It is ordered

That the petition dated 18.03.2021 brought by the defendant no. 7-10 for striking out their name from the category of defendant is hereby allowed. Accordingly the

name of the defendant No7-10 is stricken out from the category of defendants of this present suit.

B.A is directed to put necessary note on the plaint.

Considering the pleadings of the suit issues has been framed today.

To-----for P.H and hearing of the petition of defendant No.18/19.

Today is fixed for framing of issues and hearing of the petition filed by defendant No.7-10 and defendant No.18/19.

The plaintiff files Hazira. Defendant No.3, 5-6, and 7-10 are also present by filing Hazira.

Now the record is taken up for hearing of the petition dated 18.03.2021 filed by defendant No.7-10 under Order I Rule 10 of the Code of Civil Procedure read with **section 57 of the Artha Rin Adalat Ain, 2003** for striking out their names from the plaint.

Learned Advocate for the petitioners/defendant No.7-10 submits that the petitioners are merely shareholders of defendant No.1 company. They are neither borrowers, guarantors, nor mortgagors in respect of the credit facilities availed by defendant No.1 company. Accordingly, they cannot be held liable for repayment of the loan, as they do not fall within the ambit of section 6(5) of the Ain, 2003. It is further contended that inclusion of the petitioners in the suit amounts to harassment and abuse of the process of the Court. In support of his contention, the learned Advocate relies upon the cases of **Mahbub Ali vs Judge, Artha Rin Adalat & Others (6 SCOB)**, **Bakul Akter vs Bangladesh and Ors (16 BLC (AD) 2011)**, and **Singtel Asia Pacific Investment Pvt. Ltd. and Ors vs Ministry of Law and Parliamentary Affairs (21 ALR (HCD) 2011)**.

Conversely, learned Advocate for the plaintiff opposes the petition and submits that the petitioners are necessary parties in this Artha Rin Suit as they are shareholders of the borrower company (defendant No.1). He contends that a company being a juristic person, its directors and shareholders, being natural persons, are also liable for its debts, and their presence is essential for complete adjudication of the suit.

Heard both sides and perused the record as well as the decisions cited. The question for determination is whether the petitioners/defendant No.7-10 are necessary parties in the instant Artha Rin Suit for effectual adjudication of the matter.

From paragraph 2 of the plaint, it appears that the petitioners are described only as shareholders of defendant No.1 company. No document has been produced showing that they executed any charge document, personal guarantee, or mortgage to secure the loan liability of the borrower company. It is clear that they are neither borrowers, nor guarantors, nor mortgagors in respect of the impugned loan. Section 6(5) of the Ain, 2003 specifically defines the necessary parties in an Artha Rin Suit, and mere shareholders of a borrower company are not brought within its purview.

In view of the above facts and circumstances and guided by the judicial precedents cited, I find merit in the submission of the learned Advocate for the petitioners. Defendant No.7-10 being merely shareholders, without personal liability towards the loan, cannot be treated as necessary parties in this suit.

Hence

It is Ordered

That the petition dated 18.03.2021 filed by defendant No.7-10 is hereby allowed. The names of defendant No.7-10 are accordingly struck out from the array of defendants in this suit.

Bench Assistant is directed to make necessary note in the plaint.

Considering the pleadings, issues have been framed today.

Fix -----/-----/2025 for peremptory hearing (P.H.) and hearing of the petition filed by defendant No.18/19.

আমার স্বহস্তে টাইফকৃত

মোঃ হাসান জামান জজ (যুগ্ম জেলা জজ) অর্থস্বন আদালত নং-৬, ঢাকা
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