

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

**Order No. 39**  
**Date-31.03.2026**

Today is fixed for further hearing of the commission petition and for passing necessary order thereon.

The Decree Holder Bank and the Judgment Debtors are represented by filing hazira. The record is taken up for hearing of the petition.

Heard the learned Advocate for Judgment Debtor No.5 at length and perused the petition, relevant documents and the record.

It appears from the record that Judgment Debtor No.5 has filed an application under **Order XXXIX Rule 7 of the Code of Civil Procedure read with Section 57 of the Artha Rin Adalat Ain, 2003**, praying for appointment of an Advocate Commissioner for local inspection of the **B-1 scheduled mortgaged property**.

In the petition it has been stated that the B-1 scheduled land measuring **14.48 decimals** was mortgaged on **23.03.1995** by registered mortgage deed No. **1106** as collateral security against the loan in question. It is further stated that at the time of mortgage the land was vacant, but subsequently the said property has undergone substantial development and at present multi-storied structures have been erected thereon, resulting in considerable enhancement of the market value of the property.

The petitioner has further contended that if auction proceedings are conducted on the basis of the earlier valuation without ascertaining the present physical condition, nature, character and actual valuation of the property, there remains every possibility of undervaluation during auction, which may ultimately cause irreparable financial prejudice both to the Judgment Debtors and the Decree Holder Bank.

Upon careful consideration of the averments made in the petition, submissions advanced by the learned Advocate for the petitioner and the materials available on record, this Court finds that determination of the present physical status, nature, character, existing structures, measurements and current valuation of the B-1 scheduled mortgaged property is necessary for proper adjudication of the execution proceeding and for securing fair realization through lawful auction process.

It is well settled that under **Order XXXIX Rule 7 of the Code of Civil Procedure**, the Court is empowered to order local inspection where inspection of any property is necessary for elucidating any matter in dispute or for preserving the ends of justice. In the present case, local investigation appears essential to ascertain the

present factual condition of the mortgaged property before taking further steps in execution.

Therefore, for ends of justice, the petition deserves consideration.

**Hence, the petition is allowed.**

Accordingly, **Learned Advocate Humayun Kabir Sarkar (Dhaka Bar Membership No. 14114, Mobile No. 01717817475)** is hereby appointed as **Advocate Commissioner** to conduct local inspection of the B-1 scheduled mortgaged property strictly in accordance with law.

**The Advocate Commissioner is directed to:**

1. Fix a convenient date, time and place for local inspection after consultation with both parties or their learned Advocates;
2. Serve necessary prior notice upon all concerned parties;
3. Inspect and record the present nature and character of the B-1 scheduled land;
4. Measure the existing structures, if any, standing thereon;
5. Ascertain the present valuation of the property on the basis of prevailing Mouza rate and present market condition;
6. Submit a detailed report before this Court within the time fixed.

The Commissioner's remuneration is fixed at **Tk. 10,000/- (Ten Thousand)** only, which shall be deposited by Judgment Debtor No.5 before execution of the commission.

The Commissioner shall attach receipt of payment along with the report at the time of submission.

**Let the commission issue accordingly.**

**Fix on \_\_\_\_\_ for return of the commission report.**

Inform the learned Commissioner and the parties accordingly.