

Artha Rin Suit No. 1056 of 2023

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. 1, DHAKA

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

Date of Judgment : 29th day of April, 2026

Artha Rin Suit No. 1056 of 2023

Industrial and Infrastructure Development Finance Company Limited,
.....Plaintiff

-Versus-

Epic Home Appliance Limited and 02 othersDefendants

This case came up for final hearing on : 26.01.2025 ; 09.09.2025; 02.11.2025

In presence of :

Mr. Abdul Alim BhuiyanAdvocate for Plaintiff.

Mr. Foyzul Hassan ShaonAdvocate for Defendants.

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

The plaintiff financial institution filed this present suit under the **Artha Rin Adalat Ain, 2003** for recovery of **Tk. 2,24,68,554/- (Taka Two Crore Twenty Four Lacs Sixty-Eight Thousand Five Hundred Fifty Four only) as on 31.12.2022.**

The suit was filed on 13.03.2023 before the **Artha Rin Adalat No. 2**, Dhaka, being registered as **Artha Rin Suit No. 304 of 2023**. Subsequently, by order dated 31.08.2023 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. 1056 of 2023**.

Plaintiff's Case in Brief

1. That the plaintiff, **Industrial and Infrastructure Development Finance Company Limited (IIDFC)**, is a duly incorporated non-banking financial institution under the provisions of the Companies Act, 1994 and is carrying on business under the

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relevant laws governing financial institutions in Bangladesh. That the defendant No.1 is a Limited Company which is the principal borrower and the defendant No.2 and defendant No.3 are Managing Director and Director of the defendant No.1 company.

2. That the defendant No.2 on behalf of defendant No.1 company approached the plaintiff financial institution seeking a Term Loan facility amounting to Tk. 2.00 Crore and accordingly the plaintiff institution sanctioned the said credit facility vide sanction letter dated 22.01.2018 on condition to repay the said loan within the validity of 36 months equal installments on arrear basis @ 14% interest per annum and over due interest will be charged at the prescribed rate of interest on the overdue amount for delay period. In addition, delinquent charge @ 2% P.a will be charged on the overdue amounts for the delayed period and lien of FDR of BDT 50,00,000 with the plaintiff. The Defendants accepted the said sanction along with the terms and conditions stipulated therein and executed various charge documents in favour of the plaintiff.

3. The plaintiff financial institution duly disbursed the sanctioned loan facilities which were availed of and utilized by Defendant Nos.1–3 for their business purposes. However, the defendants failed to repay the loan amount within the stipulated time. Despite repeated requests, reminders, and communications from the plaintiff, the defendants neglected to adjust the outstanding liabilities.

4. As of **31.12.2022**, the total outstanding liability of the defendants stood at **Tk. 2,24,68,554/-** including accrued interest. Although the defendants acknowledged their liabilities on several occasions, they failed to make any payment. Consequently, the plaintiff issued a **legal notice dated 21.11.2022**, but the defendants neither complied with the said notice nor contacted the plaintiff in this regard.

5. Despite several demand notices and the aforesaid legal notice, the plaintiff bank failed to realize its dues. The conduct of the defendants indicates that they are unwilling to settle the outstanding liabilities unless compelled by due process of law. As such, having failed to recover the dues amicably, the plaintiff bank has been compelled to file the present suit for realization of the outstanding amount of **Tk. 2,24,68,554/-**.

Defendant's Case :

6. On the other hand, the defendants contested the suit by filing a written statement, contending, inter alia, that the suit is not maintainable either in law or on facts and that no valid cause of action arose for institution of the present case. The defendants further asserted that the suit is barred by limitation. It is stated that defendant No. 1 maintained a good business relationship with the plaintiff bank. On 22.01.2018, the plaintiff sanctioned a Term Loan facility amounting to Tk. 2.00 crore in favour of defendant No. 1 company, and pursuant thereto, a loan agreement was duly executed between the parties. As security,

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the plaintiff obtained blank cheques, a lien over a Fixed Deposit Receipt (FDR) amounting to Tk. 50,00,000/-, and a floating hypothecation over the stock of the defendant company.

7. The defendants further contended that defendant No. 1 repaid an amount exceeding Tk. 65.00 lakh to the plaintiff. However, due to unavoidable circumstances, the defendant failed to repay certain installments in time. Subsequently, on 08.12.2019, the said loan was rescheduled for an amount of Tk. 1,88,22,588/-. Thereafter, defendant No. 1 continued to pay installments regularly in accordance with the terms of the renewed sanction letter. However, due to the volatile business situation prevailing both globally and within Bangladesh, the defendant again defaulted in payment of a few installments.

8. The defendants further stated that they maintained a Fixed Deposit of Tk. 50.00 lakh with the plaintiff bank, the present value of which has increased to more than Tk. 80.00 lakh. However, the plaintiff, without prior notice to the defendants, arbitrarily adjusted only Tk. 70,79,930.50 without properly calculating the accrued interest thereon. It is further contended that defendant No. 1 has already repaid the substantial portion of the loan amount, yet the plaintiff, in a wholly illegal and arbitrary manner, adjusted the deposited amount without proper notice and imposed an interest rate higher than that stipulated in the sanction letter.

9. The defendants also alleged that, in addition to the present suit, the plaintiff has instituted a criminal case under section 138 of the Negotiable Instruments Act against them, which is claimed to be illegal and contrary to the principles of natural justice. It is further alleged that the plaintiff submitted a forged and mala fide statement of accounts by charging an excessive rate of interest in violation of the agreed terms.

10. In view of the fact that defendant No. 1 has already repaid the major portion of the loan, the plaintiff is not entitled to recover the amount as claimed in the plaint. Accordingly, the defendants prayed for dismissal of the suit with costs.

Issues:

6. 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 plaintiff has any cause of action for filing the suit ?
- 3) Whether the suit is barred by Limitation ?
- 4) Whether the plaintiff Financial Insatitution is entitled to recover the claimed amount from the defendants?
- 5) Whether the plaintiff is entitled to obtain a decree as prayed for?

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Discussions and Decisions:

11. To prove the plaintiff case, the plaintiff examined 01 witnesses namely **Md Ferdaous Mahmud 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) Sanction Letter	Exhibit-2
3) Letter of Agreement	Exhibit-3
4) Charge Documents	Exhibit-4 series
5) Loan reschedule application	Exhibit- 5
6) Sanction Letter of reschedulement	Exhibit- 6
7) First Addendum Agreement	Exhibit- 7
8) Charge Documents	Exhibit-8 Series
9) Final Notice	Exhibit-9
10) Legal notice and AD	Exhibit-10 Series
11) Account Statement	Exhibit-11

12. On the other hand, to prove the defendant's case, the defendants examined 01 witnesses namely **Md Alfaz Uddin as D.W.1** before this court. During examination of D.W.1, **no** documents were produced and exhibited on its behalf.

Decision with Reasons

13. **Issue no. 1, 2 and 3** : Whether the suit is maintainable in it's present form and prayer? + Whether the plaintiff has 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 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 non banking financial institution under the Companies Act,

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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.

14. 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, the plaintiff institution sanctioned Term Loan credit facilities in favour of defendant No.1 company. The said facilities were secured by execution of charge documents and personal guarantees. The said lona was later on rescheduled again. However, the defendants defaulted in repayment of loan installments as per terms of the Agreements. The default persisted and the outstanding liabilities accumulated to the tune of **Tk. 2,24,68,554/-**. Despite repeated reminders, the defendants failed to discharge the said liabilities. Ultimately, the plaintiff issued a Final notice on 31.01.2021 and a Legal Notice on 21.11.2022, calling upon the defendants to adjust the outstanding dues. The defendants, however, did not comply. Having no other efficacious remedy, the plaintiff was compelled to institute the present suit. The cause of action thus arose on and from 21.11.2022, and the instant suit having been filed on 13.03.2023, 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.

15. **Issue No : 4 and 5 :** Whether the plaintiff financial institution is entitled to recover the claimed amount from the defendant? + Whether the plaintiff Bank is entitled to obtain a decree as prayed for?

All the issues have been taken up together for the sake of brevity, convenience, and as they are closely interlinked both on facts and in law. Upon careful consideration of the pleadings of the parties, the oral evidence adduced, the documentary exhibits produced, and the entire materials available on record, it transpires that the plaintiff instituted the present suit under the provisions of the Artha Rin Adalat Ain, 2003 for realization of an outstanding sum of **Tk. 2,24,68,554/-**, inclusive of accrued interest calculated up to **31.12.2022**, from the defendants.

16. It is admitted and undisputed that the plaintiff is a duly incorporated non-banking financial institution and is legally competent to institute and maintain the present suit for realization of financial claims arising out of credit facilities advanced in the ordinary course

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of its banking business. It further appears from the record that the defendant, **Epique Homes Appliance Limited**, is the principal borrower who availed a personal loan facility from the plaintiff bank.

17. In view of Section 6(4) of the Artha Rin Adalat Ain, 2003, the plaint supported by affidavit carries substantive evidentiary value unless rebutted by credible and reliable evidence to the contrary. In support of its claim, the plaintiff examined one witness, **P.W.1 Md Ferdous Mahmud**, who submitted his affidavit-in-chief affirming the contents of the plaint. His testimony appears to be consistent, coherent, and in full conformity with the plaintiff's case. Nothing material could be elicited in cross-examination to discredit his evidence or to diminish its probative value.

18. From **Exhibit-2**, the Sanction Letter dated 22.01.2018, it is clearly established that the plaintiff sanctioned a Term Loan facility of Tk. 2,00,00,000/- in favour of the defendants. The subsequent execution of the loan agreement dated 28.01.2018 (**Exhibit-3**) and the charge documents (**Exhibit-4 and 8 series**) conclusively prove that the defendants voluntarily entered into a binding contractual relationship and created securities in favour of the plaintiff. Furthermore, **Exhibits-5 and 6** demonstrate that the loan was rescheduled upon the prayer of the defendants, thereby reaffirming the subsistence of liability. Notably, the defendants did not deny the sanction, disbursement, or execution of the loan documents during trial, which renders these foundational facts conclusively proved.

19. The Final Notice and subsequently the legal notice marked as **Exhibit-9 and 10** reveals that after availing the facility, the defendants failed to maintain regular repayment and gradually fell into persistent default. The record further shows that despite repeated reminders, demands, and notices issued by the plaintiff, the defendants failed to regularize the loan account or liquidate the outstanding dues. The said notice also sufficiently proves that prior demand for repayment was duly made in compliance with legal requirements before institution of the suit.

20. The statement of account, marked as **Exhibit-11** and maintained in the ordinary course of banking business, clearly reflects that as of **31.12.2022**, the total outstanding liability stood at **Tk. 2,24,68,554/-**, inclusive of accrued interest. Such a statement carries presumptive evidentiary value, particularly when regularly maintained in the course of business. In the present case, the defendants failed to produce any contrary statement of account, independent audit, payment reconciliation, or any documentary evidence capable of rebutting the correctness of the plaintiff's claim.

21. On the other hand, the defendants contested the suit by filing a written statement wherein they admitted availing the loan facility of Tk. 2.00 Crore/- from the plaintiff. Their principal defence is that they repaid more than Tk. 65.00 lakh does not absolve them of liability for the remaining outstanding dues. Partial repayment, rather than extinguishing

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liability, reinforces the existence of the loan obligation. Moreover, no documentary proof of full adjustment or final settlement has been produced. With regard to the allegation concerning improper adjustment of the FDR, the defendants failed to produce any documentary evidence showing the exact accrued amount or any objection raised at the relevant time. In absence of such evidence, this Court finds no basis to hold that the adjustment was illegal or arbitrary. They further contended that the plaintiff's claim is exaggerated and based on an incorrect statement of account. However, despite such assertions, the defendants failed to produce any documentary evidence, such as money receipts, bank deposit slips, account statements, or reconciliation records, in support of their claim. the pendency of a case under section 138 of the Negotiable Instruments Act does not bar the present civil proceeding, as both remedies are distinct and maintainable in their respective fields.

22. It is well settled that mere pleading without proof carries no evidentiary weight. The defendants, despite contesting the suit, failed to adduce any reliable evidence to demonstrate adjustment of the loan installments or to disprove the plaintiff's maintained accounts. Furthermore, during the pendency of the suit, no substantial payment was made nor was any credible repayment proposal placed before the Court. Mere denial or unsubstantiated allegations cannot override a claim supported by cogent documentary evidence.

23. It further appears from the materials on record that due to continuous default on the part of the defendant, the loan account was duly classified and remained unpaid despite repeated demands. The plaintiff has thus successfully established that the outstanding liability lawfully matured and remains recoverable.

24. Upon a comprehensive evaluation of the plaint, written statement, oral evidence, cross-examination, documentary exhibits, and the surrounding circumstances, this Court is satisfied that the plaintiff has been able to prove its case by reliable and cogent evidence. Accordingly, the issues under consideration are decided in favour of the plaintiff, who is entitled to recover Tk. **2,24,68,554/-** from the defendants.

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 and ex-party against the other defendants with costs for an amount of Tk. **2,24,68,554/- (Taka Two Crore Twenty Four Lacs Sixty-Eight Thousand Five Hundred Fifty Four only) up to**

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31/12/2022. The Plaintiff shall be entitled to receive the said amount together with interest or profit as applicable under the prevailing laws or rules from 13/03/2022, 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-1 ,Dhaka

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Judge (Joint District Judge),
Artha Rin Adalat No-1 ,Dhaka.