

Artha Rin 129 of 2011

Order-187

Date- 23/06/2026

Today is fixed for submission of the certified copy of the judgment passed by the Hon'ble High Court Division, hearing of the petitions previously kept with the record, and, in default thereof, for pronouncement of judgment.

The plaintiff is present by filing hazira. Defendant No. 3 is also present by filing hazira and has submitted today a certified copy of the judgment and order passed by the Hon'ble High Court Division in Writ Petition No. 7328 of 2015 dated 30.11.2022. Defendant No. 3 has further filed a petition praying for passing necessary orders in compliance with the aforesaid judgment of the Hon'ble High Court Division.

Heard the learned Advocate for Defendant No. 3. Perused the petition, the certified copy of the judgment and order passed by the Hon'ble High Court Division in Writ Petition No. 7328 of 2015 dated 30.11.2022, and the entire record.

Upon perusal of the said judgment, it appears that the Hon'ble High Court Division was pleased to make the Rule absolute in part with regard to the application for amendment of the written statement filed by Defendant No. 3 on 11.05.2015. It further appears that the Rule, so far as it related to the prayer for stay of further proceedings of the instant Artha Rin Suit, was discharged.

In view of the findings and directions contained in the aforesaid judgment and order of the Hon'ble High Court Division, the petition filed by Defendant No. 3 seeking compliance thereof is hereby allowed.

Accordingly, in compliance with the judgment and order passed by the Hon'ble High Court Division in Writ Petition No. 7328 of 2015 dated 30.11.2022, the written statement filed by Defendant No. 3 shall stand amended in terms of the amendment petition dated 11.05.2015, which shall form an integral part of the written statement.

Let necessary correction and incorporation be made in the written statement accordingly and the record be updated in due course.

Inform the parties accordingly.

The record is taken up for hearing of an application filed by the Defendant No. 3 under Order XXXVIII Rule 5 of the Code of Civil Procedure, 1908 read with

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Section 57 of the Artha Rin Adalat Ain, 2003, praying for attachment before judgment of the scheduled Property No. 1 and Property No. 2 belonging to Defendant No. 1 and Defendant No. 2 respectively.

Heard the learned Advocate for the Defendant No. 3/Petitioner. Perused the petition, affidavit, firisti and the documents annexed thereto. Also perused the materials available on record.

It appears from the record that the instant suit has been instituted by the plaintiff for realization of a sum of Tk. 1,89,46,954/- (Taka One Crore Eighty-Nine Lakh Forty-Six Thousand Nine Hundred Fifty-Four) only as outstanding dues as on 31.03.2008 against the defendants.

The petitioner, Defendant No. 3, has contended that Defendant No. 1 and Defendant No. 2 are the principal borrowers of the impugned credit facility, whereas the petitioner stood as mortgagor and guarantor. It is further stated that the petitioner mortgaged his landed property together with a six-storied building standing thereon as security for the loan, while the principal borrowers did not mortgage any property of their own. The petitioner has further contended that under Section 6(5) of the Artha Rin Adalat Ain, 2003, if the decretal dues can be realized from the properties of the principal borrowers, there would be no necessity to proceed against the mortgaged property of the guarantor/mortgagor.

The petitioner has further alleged that Defendant No. 1 and Defendant No. 2 have been closing down their business operations and are disposing of, or attempting to dispose of, their movable and immovable properties with a view to defeating and delaying the execution of any decree that may ultimately be passed in the suit. It has also been asserted that there is every likelihood that they might fly away to abroad after disposing of the scheduled properties and as such it necessitates to attached the scheduled properties before pronouncement of judgment.

Upon consideration of the averments made in the application, the affidavit sworn in support thereof and the documents annexed thereto, this Court is of the prima facie view that the allegations raised by the petitioner require explanation from Defendant No. 1 and Defendant No. 2 before any further order is passed.

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Accordingly, let a **Show Cause Notice** be issued upon Defendant No. 1 and Defendant No. 2 calling upon them to show cause within **15 (fifteen) days** from the date of receipt of the notice as to why the scheduled Property No. 1 and Property No. 2 described in the schedule of the application shall not be attached before judgment under the provisions of Order XXXVIII Rule 5 of the Code of Civil Procedure, 1908.

The petitioner directed to file **requisites within two (02) days**, failing which this application shall stand rejected without further reference.

Issue notice accordingly.

Fix for return of notice and further order.

Let the order be communicated at once to all concern.