<u>ARM 1156 of 2024</u>

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: 30th day of June, 2026.

<u>Artha Rin Suit No. 1156 of 2024.</u>

LANKABANGLA FINANCE PLC --Plaintiff

<u>-Versus-</u>

Md. Kafil Uddin Mahmud and One other-----------------------------------Defendants

This case came up for final hearing on : 09.10.2025, 05.03.2026, 06.04.2026.

In presence of :
Mr. Arpita Roy---Advocate for Plaintiff.
Mr. Samsul Bari (Badhon)------------------------------------Advocate for Defendant.

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

The plaintiff **LANKABANGLA FINANCE PLC** filed this present suit under the **Artha Rin Adalat Ain, 2003** for recovery of Tk. **3,87,089.52 (Taka Three Lac Eighty Seven Thousand Eighty Nine Point Fifty Two) as on 31.10.2023.**

<u>Plaintiff's Case in Brief</u>

The plaintiff, **Lankabangla Finance PLC**, is a duly incorporated and licensed non-banking financial institution carrying on business under the laws of Bangladesh. The defendant No. 1 is the principal borrower, while defendant No. 2 is the personal guarantor liable personally and collectively for the dues with plaintiff respectively.

It appears that defendant No. 1, by submitting an application dated 24.03.2019, approached the plaintiff for a personal loan facility. Upon consideration of the said application, the plaintiff sanctioned a Personal Loan Facility in the sum of Tk. 4,00,000.00/- (Taka Four Lakh only) vide Sanction Letter dated 30.04.2019. Pursuant thereto, a Loan Agreement of even date, i.e., 30.04.2019, was duly executed between the parties incorporating the terms and conditions governing the said facility. In order to secure repayment of the loan, defendant No. 1 executed the requisite charge documents in favour of the plaintiff, and defendant No. 2 executed personal guarantees undertaking to repay the outstanding dues in the event of default by defendant No. 1.

Thereafter, defendant No. 1 availed and utilized the said loan facility. However, the defendants failed to repay the loan in accordance with the stipulated repayment schedule and became irregular in payment of the installments from the very inception of the facility. Despite repeated requests and reminders from the plaintiff, the defendants neglected and failed to regularize the loan account or liquidate the outstanding liabilities. Finding no other alternative, the plaintiff caused a legal notice dated 04.12.2023 to be issued and duly served upon the defendants demanding payment of the outstanding dues. Notwithstanding receipt of the said notice, the defendants neither responded thereto nor made any payment towards adjustment of the loan liability.

The evidence on record further reveals that despite repeated demands and service of legal notice, the plaintiff was unable to realize its legitimate dues from the defendants. The conduct and communications of the defendants clearly indicated their unwillingness to discharge the liability unless compelled by an order of the Court.

As per the statement of account maintained by the plaintiff in the ordinary course of business, the total outstanding liability of the defendants stood at Tk. **3,87,089.52 (Taka Three Lac Eighty Seven Thousand Eighty Nine Point Fifty Two) as on 31.10.2023.** Having failed in all endeavors to recover the outstanding dues amicably, the plaintiff was constrained to institute the present suit.

Defendant's Case :

The defendants entered appearance and contested the suit by filing a written statement, denying all material allegations contained in the plaint except those specifically admitted. They admitted that Defendant Nos. 1 and 2, being husband and wife, had availed the loan facilities from the plaintiff institution. It was contended that, due to the economic downturn caused by the COVID-19 pandemic, they suffered severe financial hardship and consequently became irregular in repayment of the loan installments.

The defendants specifically denied the plaintiff's claim that a sum of Tk. 3,87,089.52 remained outstanding as on 31.01.2023, asserting that the alleged outstanding amount is erroneous, exaggerated, and based on an incorrect statement of account. They further denied any allegation of wilful default, mala fide intention, or misappropriation of the loan amount, maintaining that they acted in good faith and made substantial repayments towards liquidation of the loan liability. According to the defendants, a total sum of Tk. 2,71,424.75 was repaid in 28 installments. On these grounds, they contended that the plaintiff is not entitled to the reliefs claimed and prayed for dismissal of the suit with costs.

Issues:

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 plaintiff is entitled to recover the claimed amount from defendants?
4) Whether the plaintiff is entitled to obtain a decree as prayed for?

Discussions and Decisions:

To prove the plaint case, the plaintiff examined 01 witnesses namely **Md. Omor Faruque as P.W.1** before this court**. During examination of P.W.1 t**he following documents were produced and proved, which have been marked as Exhibits:-

1) Letter of Authority	**Exhibit-1**
2) Application of loan and Sanctioned Letter	**Exhibit-2 Series**
3) Charge Documents	**Exhibit-3 Series**
4) Legal Notice with P.R.	**Exhibit-4 series**
5) Account statement	**Exhibit-5**

On the other hand, to prove the defendant's case, the defendants examined a witness namely **Md. Kafil Uddin Mahmud as D.W.1. During examination of D.W.1 t**he following document is produced and proved, which has been marked as Exhibit:-Ka.

Decision with Reasons

Issue no. 1 & 2 : Whether the suit is maintainable in it's present form and prayer? + Whether the plaintiffs have any cause of action for filing the suit ?

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 which 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. These issues are thus decided in favour of the plaintiff.

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 of the defendant No.1, the plaintiff sanctioned credit facilities in favour of the defendant No.1. The said facilities were secured by execution of charge documents and personal guarantees. However, the defendants defaulted in repayment of loan installments as per terms of the sanction letters. The default persisted and the outstanding liabilities accumulated to the tune of **3,87,089.52 (Taka Three Lac Eighty Seven Thousand Eighty Nine Point Fifty Two).** Despite repeated reminders, the defendants failed to discharge the said liabilities. Ultimately, the plaintiff issued Legal notice on **04.12.2023**, 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 **04.12.2023**, and the instant suit having been filed on 08.04.2024, 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. All the aforesaid issues are therefore answered in favour of the plaintiffs.

Issue No : 3 & 4 : Whether the plaintiff institution is entitled to recover the claimed amount from the defendant ? + Whether the plaintiff is entitled to obtain a decree as prayed for?

All these issues are taken up together for the sake of brevity, convenience, and because they are closely interlinked both on facts and in law.

Upon careful consideration of the pleadings of the parties, the oral evidence adduced, documentary exhibits produced, and the entire materials available on record, it appears that the plaintiff, Lankabangla Finance PLC, instituted the present suit for realization of outstanding dues amounting to **Tk. 3,87,089.52 (Taka Three Lac Eighty Seven Thousand Eighty Nine Point Fifty Two)** inclusive of accrued interest calculated up to **31.10.2023**, against the defendants under the provisions of the Artha Rin Adalat Ain, 2003.

It is admitted and undisputed that the plaintiff is a duly incorporated scheduled non-banking financial institution, legally competent to institute and maintain the present suit for realization of financial claims arising out of sanctioned credit facilities advanced in the ordinary course of its business. It further appears from the record that Defendant No.1, namely **Md. Kafil Uddin Mahmud**, is the principal borrower, while Defendant No. 2 executed deed of personal guarantee securing repayment of the said loan facility and thereby assumed co-extensive liability with the borrower in accordance with law.

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, namely **P.W.1 Md. Omor Faruque**, who submitted affidavit-in-chief in support of the plaint. His testimony remained materially consistent, coherent, and fully supportive of the plaintiff's pleaded case. Nothing substantial could be elicited in cross-examination to discredit his testimony or weaken the evidentiary value of the plaintiff's case.
From **Exhibit-2/1**, being the sanction letter dated **30.04.2019**, it clearly transpires that upon application and request of Defendant No.1, the plaintiff sanctioned a term loan facility amounting to **Tk. 4,00,000/- (Taka Four Lac only)** in favour of Defendant No.1 subject to specified terms and conditions. The charge documents marked **Exhibit-3 series** further establish that the borrower and guarantor executed all necessary security documents, undertakings, repayment commitments, and other binding financial instruments in favour of the plaintiff institution. These documents

unmistakably prove lawful creation of financial liability and establish beyond doubt that Defendant No.1 duly availed the sanctioned facility and undertook repayment obligations according to agreed terms.

The legal notice with postal receipt marked **Exhibit-4 series** reveal that after availing the said facility, Defendant No.1 failed to maintain regular repayment and gradually committed persistent default. The documentary record further demonstrates that despite repeated reminders, notices, and demands issued by the plaintiff, the defendants failed to regularize the account or liquidate the overdue liability. The legal notice also sufficiently establishes that the plaintiff demanded repayment before institution of the suit in accordance with law.

The statement of account marked **Exhibit-5**, maintained in the ordinary course of financial business, clearly reveals that as on **31.10.2023** the total outstanding dues stood at **Tk. 3,87,089.52 (Taka Three Lac Eighty Seven Thousand Eighty Nine Point Fifty Two)** inclusive of accrued interest. Such statement of account carries presumptive evidentiary value, particularly when regularly maintained in course of business, and in the present case the defendants failed to produce any contrary statement, independent audit, payment reconciliation, or documentary material capable of dislodging the correctness of the plaintiff's financial claim.

Although the defendants attributed their repayment irregularity to the adverse economic impact of the COVID-19 pandemic and claimed to have made substantial repayments, such assertions remain unsupported by reliable documentary evidence. Mere pleading or denial, without satisfactory proof, cannot displace the evidentiary value of the plaintiff's duly proved documentary records, particularly when the defendants admitted availing the loan facility and failed to establish discharge of their contractual obligations.

This Court notes that mere pleading without proof carries no evidentiary weight. The defendants, despite contesting the suit, failed to produce any reliable documentary evidence demonstrating full adjustment of installments or disproving the plaintiff's maintained account statement. During pendency of the suit also, no substantial payment was made nor was any convincing repayment proposal placed before the Court. Mere denial or allegation unsupported by evidence cannot defeat a financial claim proved by primary documentary records.

It further appears from the materials on record that due to continuous default committed by Defendant No.1, the loan account became classified and remained unpaid despite repeated demands. The plaintiff has therefore successfully established that the outstanding liability lawfully matured and remained recoverable.

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Under Section 6(5) of the Artha Rin Adalat Ain, 2003, the liability of guarantor is co-extensive with that of the principal borrower unless restricted by specific contractual terms. In the present case, no such limiting clause is found in the guarantee documents. Consequently, Defendant No. 2, having voluntarily executed guarantee obligations, is jointly and severally liable together with Defendant No.1 for repayment of the decretal dues.

Upon comprehensive evaluation of the plaint, written statement, oral depositions, cross-examination, documentary exhibits, and all surrounding circumstances, this Court finds that the plaintiff has been able to prove its claim by reliable oral and documentary evidence. Accordingly, the issues under consideration are decided in favour of the plaintiff who is entitled to recover **Tk. 3,87,089.52 (Taka Three Lac Eighty Seven Thousand Eighty Nine Point Fifty Two)** from the Defendants, jointly and severally.

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 and ex-party against the other defendant with costs for an amount of **Tk. 3,87,089.52 (Taka Three Lac Eighty Seven Thousand Eighty Nine Point Fifty Two) up to 31.10.2023**. The Plaintiff shall be entitled to receive the said amount **together with interest or profit as applicable under the prevailing laws or rules from 08.04.2024**, 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.

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