<u>ARM 2140 of 2023.</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)

<u>Date of Judgment : 29th day of June, 2026.</u>

<u>Artha Rin Suit No.2140 of 2023.</u>

LANKABANGLA FINANCE PLC---Plaintiff

-Versus-

Md. Nur Mohammad and 03 others ---------------------------------------Defendants

This case came up for final hearing on: 24.09.2025, 12.03.2026, 31.03.2026.

In presence of :
Mr. Arpita Roy---Advocate for Plaintiff.
Mr. Abu Raihan Sarker---Advocate for Defendants.

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. 8,52,003.36/- (Taka Eight Lac Fifty Two Thousand Three Point Thirty Six only) as on 27.09.2023.**

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

1. The plaintiff, **LANKABANGLA FINANCE PLC**, is a non-banking financial investment institution duly incorporated under the relevant law of the Land. The defendant No.1 is the principal Borrower of the credit facility while defendant No.2 to 4 are guarantors of the credit facilities availed of by defendant No.1 from the plaintiff.

2. At the request of defendant No.1 for loan dated 09.06.2021, the plaintiff financial Institution sanctioned *a* **Term Loan facility under SME Finance** *facility*

of ***TK. 10,00,000.00/-*** *in favor of the defendant No.1 vide Sanction letter dated* ***15.06.2021****. Accordingly, a loan agreement was executed narrating the terms and conditions of the loan.* The defendant No.1 accepted sanction letter along with the terms and conditions stipulated therein and executed various charge documents in favor of the plaintiff Institution. As security for the aforesaid investment facilities, the defendant Nos.2-4 personally guaranted the loan.

3. The plaintiff financial institution duly disbursed the sanctioned investment facilities which were availed of and enjoyed by the defendant No.1-4 in the course of its business activities. However, the defendants, with mala fide intent, failed to repay the investment amounts within the stipulated periods. Despite repeated requests, reminders, and letters from the plaintiff bank, the defendants neglected and failed to adjust the outstanding liabilities.

4. As on **27.09.2023,** the total liabilities of the defendants stood at TK. **8,52,003.36** inclusive of accrued interest. Although on several occasions the defendants acknowledged their liabilities, they deliberately failed to make payments. Consequently, the plaintiff issued Legal Notice on **09.11.2023,** however, the defendants failed to comply with the said notice and did not contact the plaintiff financial institution in this regard.

5. The plaintiff bank could not realize its dues despite of several reminders and legal notice. The defendants' communications and conduct have made it evident that they will not settle the outstanding liabilities unless compelled by due process of law. As of 27.09.2023, the admitted liability of the defendants stood at **Tk. 8,52,003.36/-**. Having failed in all attempts to recover its dues amicably, the plaintiff has compelled to file this instant suit.

Defendant's Case :

6. The **Defendant No.1-2** have contested the suit by filing a Written Statement wherein it is stated, inter alia, that the defendant No.1 availed and enjoyed TK.20.00 Lacs as term Loan from the Plaintiff financial institution and was very regular in repayment of the loan. That on different dates the defendants paid Total TK 4.47,831/- as loan installment in favor of the plaintiff. The defendants state that, while they were regularly repaying the loan, the outbreak of the COVID-19 pandemic caused a severe downturn in their business operations, as a result of which they became irregular in making repayments. The allegations made by the plaintiff in the plaint regarding the alleged default are false, fabricated and are emphatically denied. Despite the defendants' continued repayment of the outstanding dues, the plaintiff has instituted the present suit without any lawful basis. Accordingly, the suit is misconceived, devoid of merit, and is liable to be dismissed.

Issues:

7. 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 Institution is entitled to recover the claimed amount from the defendants?

4) Whether the plaintiff is entitled to obtain a decree as prayed for?

Discussions and Decisions:

8. 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	**Exhibit-4 series**
5) Account statement	**Exhibit-5**

On the other hand, the defendants did not examine any witness and did not produce any documents before the court.

Decision with Reasons

9. Issue nos. 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. This issue is thus decided in favour of the plaintiff.

10) 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 **8,52,003.36/- (Taka Eight Lac Fifty Two Thousand Three Point Thirty Six only) as on 27.09.2023.** Despite repeated reminders, the defendants failed to discharge the said liabilities. Ultimately, the plaintiff issued Legal notice on 09.11.2023, 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 09.11.2023, and the instant suit having been filed on 26.11.2023, 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. All the aforesaid issues are therefore answered in favour of the plaintiffs.

11) 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. 8,52,003.36/- (Taka Eight Lac Fifty Two Thousand Three Point Thirty Six only)** inclusive of accrued interest calculated up to **27.09.2023**, against the defendants under the provisions of the Artha Rin Adalat Ain, 2003.

12) 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. Nur Mohammad**, is the principal borrower, while Defendant Nos.2-4 executed deeds of guarantee securing repayment of the said loan facility and thereby assumed co-extensive liability with the borrower in accordance with law.

13) 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.

14. From **Exhibit-2/1**, being the sanction letter dated **15.06.2021**, it clearly transpires that upon application and request of Defendant No.1, the plaintiff sanctioned a term loan facility amounting to **Tk. 10,00,000/- (Taka Ten 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 guarantors 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.

15. 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.

16. The statement of account marked **Exhibit-5**, maintained in the ordinary course of financial business, clearly reveals that as on **27.09.2023** the total outstanding dues stood at **Tk. 8,52,003.36/-**, 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.

17. On the other hand, the defendants contested the suit by filing written statement wherein they admitted availing the loan facility of **Tk. 10,00,000/-** from the plaintiff institution. Their principal defence is that Defendant No.1 was regular in repayment and allegedly paid a total sum of **Tk. 4,47,831.56/-** towards loan installments. They further contended that the suit was instituted before expiry of the loan tenure and that the plaintiff's present claim is exaggerated and based on incorrect statement of account. However, although such assertions were made in the written statement, no documentary evidence such as money receipts, account reconciliation statements, bank deposit slips, or other financial records were produced to substantiate those claims.

18. 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.

19. 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.

20. Under Section 6(5) of the Artha Rin Adalat Ain, 2003, the liability of guarantors 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 Nos. 2-4, having voluntarily

executed guarantee obligations, are jointly and severally liable together with Defendant No.1 for repayment of the decretal dues.

21. 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. 8,52,003.36/-** 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 & 2 and ex-party against the other defendants with costs for an amount of Tk. 8,52,003.36/- (Taka Eight Lac Fifty Two Thousand Three Point Thirty Six only) as on 27.09.2023. The Plaintiff shall be entitled to receive the said amount together with interest or profit as applicable under the prevailing laws or rules from 26.11.2023, 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.