

Order no-22
Dt-19.05.2026

-----The petitioner, namely the pro forma defendant No. 3, is represented through learned Advocate by filing hazira.

On perusal of the record, it appears that the plaintiff-opposite party, **MIDAS Financing Limited**, has already entered appearance in this miscellaneous case and, on the previous date, prayed for passing an order in accordance with law.

In the facts and circumstances of the case, and considering that the plaintiff-opposite party has already appeared and been heard, this Court is of the view that no useful purpose would be served by awaiting the service report upon Opposite Party No. 2 and 3, and that the ends of justice would be best served by proceeding to dispose of the present miscellaneous case on merit.

The pro forma defendant No. 3, namely **M/s Md. Fakhru Islam Securities Ltd.**, has filed the instant application under section 19(2) read with section 19(3) of the Artha Rin Adalat Ain, 2003, praying for setting aside the ex parte judgment and decree dated 19.11.2023 and the decree signed on 22.11.2023 passed by this Court in **Artha Rin Suit No. 1395 of 2023**.

It is stated in the application that no summons of the suit was ever served upon the petitioner and, as such, it had no knowledge of the proceeding or the decree. According to the petitioner, it first came to know about the ex parte decree on 10.02.2025, whereupon it obtained certified copies of the judgment and decree from the Court. Thereafter, within thirty (30) days from the date of such knowledge, the petitioner instituted the present miscellaneous case on 27.02.2025.

It further appears from the record that, at the time of filing the present application, the petitioner deposited 10% of the decretal amount by Pay Order No. 1571404 dated 27.02.2025 for Tk. 5,21,100/-, thereby purporting to comply with the mandatory requirement of section 19(3) of the Artha Rin Adalat Ain, 2003.

I have heard the learned Advocate for the petitioner, perused the application, the documents annexed thereto, the relevant records of Artha Rin Suit No. 1395 of 2023, and considered the provisions of section 19 of the Artha Rin Adalat Ain, 2003.

Section 19 of the Artha Rin Adalat Ain, 2003 provides a statutory remedy to a defendant against whom an ex parte decree has been passed, enabling

such defendant to apply for setting aside the decree, subject to fulfillment of certain mandatory conditions. The two principal requirements are:

1. The application must be filed within thirty (30) days from the date of knowledge of the ex parte decree; and
2. The applicant must deposit 10% of the decretal amount in Court.

The object of the provision is to strike a balance between the finality of judicial proceedings and the fundamental principle that no person should be condemned unheard, while at the same time discouraging frivolous or dilatory applications.

Upon scrutiny of the record, it appears that the petitioner claims to have acquired knowledge of the ex parte decree on 10.02.2025 and filed the instant application on 27.02.2025. Thus, the application has been filed well within the statutory period of thirty (30) days from the date of knowledge.

The petitioner has also submitted Pay Order No. 1571404 dated 27.02.2025 for Tk. 5,21,100/-, representing 10% of the decretal amount, which has been accepted and kept on record. Accordingly, the statutory condition prescribed in section 19(3) of the Act has also been fulfilled.

It is true that the ex parte decree was passed on 19.11.2023 and the petitioner claims to have gained knowledge thereof on 10.02.2025, approximately fifteen months thereafter. However, the law does not require the application to be filed within thirty days from the date of decree, but rather within thirty days from the date of knowledge of the decree. The crucial consideration is whether the applicant acted with due promptitude upon obtaining such knowledge.

The petitioner, having filed the present application within seventeen days of acquiring knowledge of the decree and having deposited the statutory amount, has demonstrated bona fide intention to contest the suit on merit.

The principles of natural justice demand that a party should ordinarily be afforded a fair opportunity of hearing before being bound by an adverse decree. If the petitioner is denied such opportunity despite complying with the mandatory statutory requirements, irreparable prejudice may be caused. On the other hand, any inconvenience to the plaintiff-opposite party can adequately be compensated by allowing the suit to proceed expeditiously on merit.

In view of the foregoing facts and circumstances, this Court is satisfied that the petitioner has successfully established sufficient grounds for setting

aside the ex parte judgment and decree under section 19(2) of the Artha Rin Adalat Ain, 2003.

**Hence,
it is Ordered**

That the instant Miscellaneous Case filed on 27.02.2025 by M/s Md. Fakhrul Islam Securities Ltd. under section 19(2) read with section 19(3) of the Artha Rin Adalat Ain, 2003 is hereby **allowed**.

Accordingly, the ex parte judgment dated 19.11.2023 and the decree dated 22.11.2023 passed in Artha Rin Suit No. 1395 of 2023 are hereby **set aside so far as the present petitioner (pro forma defendant No. 2) is concerned**.

The said Artha Rin Suit No. 1395 of 2023 is restored to its original file and number and shall proceed from the stage of filing written statement by the present petitioner.

The Pay Order No. 1571404 dated 27.02.2025 for Tk. 5,21,100/- deposited by the petitioner, being 10% of the decretal amount, is accepted and shall remain deposited in Court. The said amount shall be dealt with and adjusted or refunded, as the case may be, at any stage of the proceeding or at the time of final disposal of the suit, in accordance with law.

The Sheristadar is directed to take necessary steps forthwith.

Let the restored Artha Rin Suit No. 1395 of 2023 be fixed on -----
for filing written statement by the petitioner/pro forma defendant No. 3.

Inform the parties accordingly