ARM 1136 of 2022.

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 : 10th day of August, 2026.

Artha Rin Suit No. 1136 of 2022.

Lankabangla Finance PLC---Plaintiff
-Versus-
Chowdhury Md. Sayedul Bashar & others--------------------Defendant

This case came up for final hearing on: 22.02.2026 & 06.04.2026.

In presence of:
Khan Mohammad Shameem Aziz--------------Advocate for Plaintiff.
Md. Sirajul Islam Bhuiyan----------------------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. 15,56,305.73 (**Taka Fifteen Lac Fifty Six Thousand Three Hundred Five Point Seventy Three**)** as on **31.10.2022.**

1. The Plaintiff case in brief:

The plaintiff, **Lankabangla Finance PLC,** is a duly incorporated and licensed non-banking financial institution under the laws of Bangladesh and is legally competent to institute the present suit. Defendant No.1 is the principal borrower, while Defendant No.2 is the personal guarantor and is jointly, severally, and personally liable for repayment of the loan liability.

2. Upon the application of Defendant No.1 dated 25.03.2019, the plaintiff sanctioned a Personal Loan Facility of Tk. 10,00,000/- by Sanction Letter dated

01.04.2019. Accordingly, a Loan Agreement was executed on the same date containing the terms and conditions governing the facility. Defendant No.1 also executed the requisite loan and security documents in favour of the plaintiff, while Defendant No.2 furnished an irrevocable personal guarantee securing repayment of the loan in the event of default.

3. After disbursement, Defendant No.1 availed the facility but failed to repay the installments as stipulated and became a chronic defaulter. Despite repeated demands and reminders, the defendants failed to regularize the account or discharge the outstanding liability. Consequently, the plaintiff issued a legal notice dated 11.05.2022 demanding payment of the dues, which was duly served upon the defendants. Nevertheless, they neither responded nor made any payment. As per the plaintiff's statement of account maintained in the ordinary course of business, Tk. 15,56,305.73 remained outstanding as on 31.10.2022. Having exhausted all amicable means of recovery, the plaintiff instituted the present suit for realization of the outstanding dues with interest and other reliefs available under law.

4. ***On the other hand the Defendant No.2 entered appearance and contested the suit by filing a written statement, contending that*** the suit is not maintainable in its present form and manner, is without any lawful cause of action. On merits, the defendant submits that Defendant No.1, Mr. Chowdhury Md. Sayedul Bashar, and Defendant No.2, Ms. Irin Sattar, became acquainted with each other during the latter part of their academic life and, having developed an intimate relationship, married on 09.12.2011 at Chattogram. Defendant No.1 is stated to be a graduate and post-graduate in Management and to have subsequently worked in different organizations, including City Bank, from which he resigned in 2019. Defendant No.2 is a graduate in BBA and is presently serving as a Senior Officer of Rupali Bank Ltd. According to Defendant No.2, they initially led a peaceful matrimonial life and have a son named Sayhan.

5. It is further contended that, after Defendant No.1 became unemployed, misunderstanding arose between the spouses and their matrimonial relationship deteriorated. Defendant No.2 alleges that Defendant No.1, being her husband, was well acquainted with her signature and used to possess her photographs. Taking advantage of such familiarity and access, Defendant No.1 allegedly committed fraud and forgery by using Defendant No.2's signature and photograph and, without her knowledge or consent, applied to the plaintiff for a personal loan of Tk.10,00,000/-.

6. Defendant No.2 specifically denies having stood as guarantor or surety for the said loan. She contends that she never executed any guarantee agreement, undertaking, or other document in connection with the loan obtained by Defendant No.1. According to her, the signatures appearing on the “Details of Personal Guarantee” form, the “Undertaking” form and the “Personal Guarantee” form are not her signatures but were forged, fabricated and manipulated by Defendant No.1. She therefore asserts that no valid contract of guarantee was ever executed by her in favour of the plaintiff and, consequently, no liability can be imposed upon her for repayment of the loan availed by Defendant No.1.

7. Defendant No.2 further states that she first came to know about the suit and the decree when a representative of the plaintiff approached her at her office at Rupali Bank Ltd., Corporate Branch, Moghbazar, Dhaka, on 08.01.2024 and informed her about the judgment and decree passed in Artha Rin Suit No.1136 of 2022 and the pendency of Artha Execution Case No.337 of 2023, wherein a warrant of arrest had allegedly been issued against her. Being surprised and unaware of the proceedings, she immediately approached the Court on 09.01.2024, engaged her learned Advocate Mr. Aminur Rahman Khan, collected the relevant papers and information and voluntarily surrendered in the execution case after complying with section 34(6) of the Artha Rin Adalat Ain, 2003, whereupon she was enlarged on bail. Thereafter, she filed Miscellaneous Case No.3 of 2024 on 01.02.2024 seeking appropriate relief against the ex parte judgment and decree.

8. It is lastly contended by Defendant No.2 that, upon discovering the alleged fraudulent conduct of Defendant No.1, she dissolved the matrimonial relationship with him and has since been living separately with her minor son. As she never consented to the loan transaction, never executed any guarantee document and never undertook any obligation to repay the loan obtained by Defendant No.1, she claims that she cannot legally be held liable for the plaintiff’s alleged dues. Accordingly, Defendant No.2 prays that the suit, so far as it relates to her, be dismissed as not maintainable and that she be relieved from all liability arising out of the alleged loan transaction.

Issues:

9. On perusal of the plaint, written-statement, documents and previously framed issues, for proper adjudication of the suit, the issues are reframed in the following ways:

1) Whether the suit is maintainable in it's present form and prayer?

2) Whether the plaintiffs has any cause of action for filing the suit?

3) Whether the suit is barred by limitation?

4) Whether the plaintiff institution is entitled to recover the claimed amount from the defendants?

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

Discussions and Decisions:

10. To prove the plaint case, the plaintiff examined 01 witness namely **Omar Faruk 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 Authorization	Exhibit-1
2) Loan Application & Sanctioned Letter	Exhibit-2 series
3) Loan Agreement	Exhibit-3
4) Letter of Personal Guarantee	Exhibit-4
5) Charge Documents	Exhibit-5 series
6) Legal Notice with P.R	Exhibit-06 series
7) Account statement	Exhibit-07

11. On the other hand, to prove the defendant's case, the defendant examined a witness namely **Irin Satter as D.W.1. During examination of P.W.1 t**he following documents were produced and proved, which have been marked as Exhibits:-

01	Staff Account Opening Form	Ka
02	Specimen Signature Case	Kha
03	Application, dated-23.12.2020	Ga
04	Application, dated-29.12.2020	Gha

05	Application, dated-14.01.2021	Uma

12. The handwriting expert **Most. Hosne Nur Akter** has been examined as **C.W.1** and during her examination in chief, the Expert opinion and her signature therein was examined as **Exhibit-I and II.**

Decision with Reasons

13. **Issue no. 1, 2 and 3 :** Whether the suit is maintainable in it's present form and prayer? + Whether the plaintiffs have 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 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.

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 of the defendant No.1, the plaintiff bank 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 **15,56,305.73.** Despite repeated reminders, the defendants failed to discharge the said liabilities. Ultimately, the plaintiff issued Legal notice on 11.05.2022 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 01.04.2019 and the instant suit having been filed on 11.05.2022, 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 is entitled to obtain a decree as prayed for?

All the issues are taken up together for the sake of brevity and convenience, as they are closely interconnected and substantially relate to the plaintiff's entitlement to recover the outstanding loan dues and the liability of the respective defendants.

16. Upon careful consideration of the pleadings, oral evidence, documentary exhibits and the entire materials on record, it appears that the plaintiff is a duly incorporated and licensed non-banking financial institution and is legally competent to institute the present suit. It is also established from the materials on record that Defendant No.1, Chowdhury Md. Sayedul Bashar, approached the plaintiff for a personal loan facility and, upon consideration of his application, the plaintiff sanctioned a personal loan of Tk.10,00,000/- in his favour. The loan application and Sanction Letter dated 01.04.2019 have been duly exhibited as Exhibit-2 and Exhibit-2/Ka. The execution of the loan documents and other relevant charge documents is further supported by Exhibit-3, Exhibit-4 series and Exhibit-5 series. Thus, the existence of the loan transaction between the plaintiff and Defendant No.1 stands sufficiently established.

17. The plaintiff examined P.W.1, Omar Faruk, in support of its case. His deposition is consistent with the pleadings and the documentary evidence produced by the plaintiff, and his testimony could not be materially shaken in cross-examination. In terms of section 6(4) of the Artha Rin Adalat Ain, 2003, the plaint supported by affidavit carries evidentiary value, subject to rebuttal by credible evidence. In the present case, the plaintiff has not merely relied upon the averments made in the plaint; rather, the material assertions regarding sanction, disbursement, documentation, default and outstanding liability have been corroborated by the oral testimony of P.W.1 and the documentary exhibits.

18. Exhibit-6 series demonstrates that after availing the loan facility, Defendant No.1 failed to discharge his repayment obligations in accordance with the terms and conditions of the loan documents. The reminder letters and legal notice produced by the plaintiff further establish that despite being called upon to liquidate the outstanding dues, Defendant No.1 failed to regularise the loan

account. Exhibit-7 series, being the statement of account maintained by the plaintiff in the ordinary course of its business, shows that an amount of Tk.15,56,305.73 was outstanding as on 31.10.2022, inclusive of accrued interest. The defendants have not produced any credible documentary evidence, such as receipts, payment records, account statements, reconciliation statements or other materials, to establish that the said amount had been paid, adjusted or otherwise discharged. Accordingly, the Court finds that the plaintiff has successfully established the existence of the loan transaction, the disbursement of the loan facility to Defendant No.1, his subsequent default and the outstanding liability reflected in the statement of account.

19. However, the position of Defendant No.2 requires separate and careful consideration. The specific case of Defendant No.2 is that although she has been impleaded in the suit as a guarantor of the loan facility allegedly availed by her former husband, she never executed any deed of guarantee, undertaking or other charge document in favour of the plaintiff and that the signatures appearing on the alleged guarantee documents were forged and fabricated.

20. In this regard, Exhibit-4 assumes decisive importance. Exhibit-4 is the alleged Letter of Guarantee purportedly executed by Defendant No.2. Defendant No.2 has specifically denied the signature appearing thereon and has consistently maintained that she never stood as guarantor for the loan of Defendant No.1. In such circumstances, the burden lies upon the plaintiff to establish that Defendant No.2 actually executed the alleged guarantee document and thereby voluntarily assumed the obligation of a guarantor.

21. The plaintiff has failed to discharge such burden. Rather, the evidence of C.W.1 and the Expert Opinion marked as Exhibit-II materially support the defence of Defendant No.2. Upon examination of the disputed signature appearing on the alleged Letter of Guarantee with the admitted signatures of Defendant No.2, the handwriting expert opined that the disputed signature was not identical with the admitted signature of Irin Sattar. The expert evidence, therefore, creates a clear and substantial doubt regarding the genuineness and execution of Exhibit-4 by Defendant No.2.

22. The Court has carefully considered the said expert evidence along with the surrounding circumstances and the other materials on record. There is no independent and reliable evidence sufficient to establish that Defendant No.2 personally signed and executed the alleged Letter of Guarantee. No convincing evidence has been produced to demonstrate that Defendant No.2 appeared before the plaintiff or its authorised officer and consciously executed the guarantee

document after understanding and accepting the terms thereof. In the absence of proof of execution, the alleged guarantee cannot legally be treated as an enforceable contract of guarantee against Defendant No.2.

23. It is a fundamental principle of the law of guarantee that the liability of a surety arises from a valid contract of guarantee. A person cannot be saddled with the liability of a guarantor merely because his or her name appears in a document or because of the existence of a relationship with the principal borrower. The essential element is the voluntary assumption of liability through a valid and proved guarantee. Therefore, before fastening any liability upon Defendant No.2, the plaintiff was required to establish that she had consciously and voluntarily undertaken to discharge the liability of Defendant No.1 in the event of his default. In the present case, that foundational fact has not been proved to the satisfaction of the Court.

24. The mere fact that Defendant No.2 was the wife of Defendant No.1 at the relevant time does not, by itself, make her liable for the loan obtained by Defendant No.1. Matrimonial relationship cannot be treated as a substitute for a contract of guarantee. A wife does not automatically become liable for the financial obligations incurred by her husband merely by virtue of their marital relationship. Unless an independent contractual obligation is established against her, the debt of the husband remains his own liability.

25. In the present case, the evidence establishes the loan transaction with Defendant No.1 and his failure to repay the same. On the other hand, the alleged guarantee against Defendant No.2 has not been satisfactorily proved. The expert evidence substantially corroborates her specific defence that the disputed signature appearing on Exhibit-4 is not her genuine signature. Consequently, the Court finds that Defendant No.2 did not validly execute the alleged Letter of Guarantee and cannot be held liable as a guarantor merely on the basis of her relationship with Defendant No.1.

26. It is also significant that the plaintiff has not produced any other independent and convincing evidence capable of proving that Defendant No.2 expressly consented to or assumed liability for the loan facility. In the absence of such evidence, the alleged guarantee document cannot be enforced against her. The principle that a guarantor’s liability may be co-extensive with that of the principal debtor becomes applicable only after the existence and validity of the contract of guarantee itself are established. Since the execution of the guarantee by Defendant No.2 has not been proved, the question of imposing co-extensive liability upon her does not arise.

27. Accordingly, upon an overall assessment of the evidence, the Court finds that the plaintiff has successfully established its claim against Defendant No.1. Defendant No.1, being the principal borrower and the person who availed the loan facility from the plaintiff, is legally liable to repay the outstanding dues of Tk.15,56,305.73 as on 31.10.2022, together with such further interest and other lawful charges, if any, as are permissible under the terms of the loan agreement and applicable law until realisation.

28. Conversely, the plaintiff has failed to prove that Defendant No.2 voluntarily executed the alleged Letter of Guarantee. The expert evidence marked as Exhibit-II supports her denial, and there is no sufficient independent evidence to displace that conclusion. Therefore, Defendant No.2 cannot be held liable for the debt of Defendant No.1 merely because she was his wife at the relevant time.

29. In view of the foregoing discussion, the Court is of the considered opinion that the liability for repayment of the loan and the outstanding dues rests upon Defendant No.1 as the principal borrower. Defendant No.2 is entitled to be exempted from all liabilities arising out of the said loan transaction, and the suit, insofar as it seeks recovery of the plaintiff's claim against Defendant No.2 as guarantor, is liable to be dismissed. The plaintiff is, however, entitled to recover the legally recoverable outstanding amount from Defendant No.1 in accordance with law. Thus issue no.4 and 5 have been disposed of in disfavour of the defendant No.1.

In result the case succeeded.

Court Fee paid is correct

Hence,

It is Ordered

That the present suit be decreed in part on ex-parte against Defendant No.1 and dismissed on contest against Defendant No.2, with cost for an amount of **TK. 15,56,305.73 (Taka Fifteen Lac Fifty Six Thousand Three Hundred Five and Paisa Seventy-Three)** being the outstanding loan liability as on **31.10.2022.**

The Plaintiff shall be entitled to receive from defendant No.1 the said amount together with interest or profit as applicable under the prevailing laws or rules from 01.12.2022, i.e., the date of filing of the suit, until full realization.

Defendant No.1 is hereby directed to pay the aforesaid decretal amount together with the permissible interest and charges within **60 (sixty) days** from the date of this judgment and decree, failing which the plaintiff shall be at liberty to realise the decretal amount from Defendant No.1 in accordance with law.

On the other hand, So far as Defendant No.2, Irin Sattar, is concerned, she is exonerated and discharged from all liabilities arising out of the said loan transaction, and the suit against Defendant No.2 is accordingly dismissed on contest.

The plaintiff shall not be entitled to realise any part of the decretal liability arising out of the aforesaid loan transaction from Defendant No.2, nor shall any execution proceeding be maintained against her in respect of such liability.

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.

Let a decree be drawn up accordingly.

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.