ARM 167 of 2024.

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: 1st day of September, 2026.

Artha Rin Suit No. 167 of 2024.

Eastern Bank Limited--Plaintiff
-Versus-
Md. Mostafa & others--Defendants

This case came up for final hearing on: 09.03.2026, 11.05.2026,16.08.2026

In presence of :
Mr. Md. Khalad Hossain Sarker---------------------Advocate for Plaintiff.
Mr. Md. Hasan Al Jabir Talukdar Sunny--------Advocate for Defendant.
And having stood for consideration to this day, the court delivered the following judgment:-

The plaintiff, Eastern Bank Limited filed this present suit under the Artha Rin Adalat Ain, 2003 for recovery of **Tk. 33,52,739.51/- (Taka Thirty Three Lac Fifty Two Thousand Seven Hundred Thirty Nine Point Fifty One) as on 31.05.2023.**

Plaintiff's Case in Brief:

The plaintiff, Eastern Bank Limited, is a banking company duly incorporated under the relevant Companies Act and governed by the Bank Companies Act, 1991. Defendant No.1 is the principal borrower, while Defendant Nos.2 and 3 are the personal guarantors in respect of the credit facility availed by Defendant No.1.

The defendant No.1 applied to the plaintiff bank for a loan facility, whereupon, upon due consideration, the plaintiff sanctioned an **EBL Utkorsho Term Loan Facility of Tk.40,00,000.00**, repayable in 36 equal monthly installments, vide Sanction Letter dated 29.09.2019. Defendant No.1 accepted the terms and conditions thereof and availed the entire sanctioned facility, maintaining Loan Account No. **1020740000000030** with the plaintiff bank.

The said facility was secured by, inter alia, a Promissory Note dated 29.09.2019, a Letter of Guarantee executed by Defendant Nos.1–3, a Letter of Hypothecation, and lien over an FDR of Tk.2,00,000.00. The said FDR was encashed on 28.03.2023 for Tk.2,25,022.52, inclusive of interest, and the proceeds were partially adjusted against the loan liability.

The defendants, however, failed to maintain regular payment of installments from the inception of the facility and thereby committed default. Despite repeated demands, telephone calls and personal visits, they failed to regularize and liquidate the outstanding liability. Consequently, a legal notice dated 25.05.2023 was served upon them through the plaintiff's panel lawyer, but they failed to comply with the same.

The hypothecated movable assets, which were under the possession and control of Defendant No.1, were subsequently found not to exist at the earmarked premises. Accordingly, the plaintiff did not proceed with auction under section 12 of the Artha Rin Adalat Ain, 2003 and, foregoing the hypothecated assets, instituted the present suit for recovery of the outstanding loan liability.

According to the statement of account maintained by the plaintiff in its ordinary course of business, the total outstanding liability of the defendants stood at **Tk.33,52,739.51** as on 31.05.2023. Having failed in all its endeavors to recover the outstanding dues amicably, the plaintiff was left with no other efficacious remedy but to institute the present suit for realization of its lawful dues.

On the other hand, Defendant No. 3, having filed a written statement and contested the suit, contends that the suit, in its present form and manner, is not maintainable and that the plaintiff has no cause of action to institute the same against him. He further contends that the suit is barred by limitation.

The case of Defendant No. 3, in substance, is that he was born into a respectable Muslim family and, being an honest, religious, decent, ideal and respected person, started his business and ultimately established himself as a reputed businessman in the society. He is the proprietor of **M/s Chandpur Electric and Hardware Store**.

Defendant No. 3 further states that he had no knowledge whatsoever regarding the loan allegedly sanctioned and disbursed by the plaintiff-bank in favour of Defendant No. 1. According to him, as he and Defendant No. 1 were businessmen operating in the same market/in adjacent business premises, the bank representative, at the instance of Defendant No. 1, obtained his signature on a blank paper purportedly for the purpose of witnessing the opening of a bank account by Defendant No. 1 with the plaintiff-bank.

He specifically denies having executed or signed any document as a **personal guarantor** in respect of the loan facility allegedly availed by Defendant No. 1 from the plaintiff-bank. He, therefore, contends that he cannot be held liable for the alleged loan liability of Defendant No. 1 and that the plaintiff-bank is not entitled to obtain any relief against him on the basis of the alleged guarantee.

Accordingly, Defendant No. 3 has prayed for his discharge from the liability arising out of the suit and for dismissal of the suit as against him, with costs.

On the other hand, Defendant No. 2 also filed a written statement contending that admittedly the defendants availed the loan facility from the plaintiff bank but due to covid-19 and business downturn the defendant No.1 could not repay the loan installment on regular basis. But the defendants are agree to pay the outstanding dues upon mutual arrangement.

Issues:

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 have any cause of action for filing the suit?
3) Whether the suit is barred by limitation?
4) Whether the plaintiff Bank is entitled to recover the claimed amount from the defendants?
5) Whether the plaintiff Bank is entitled to obtain a decree as prayed for?

Discussions and Decisions:

To prove the plaint case, the plaintiff examined 01 witnesses namely **Md. G.M Salim Reza 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, & Loan Agreement	**Exhibit-2**
3) Sanction Letter	**Exhibit-3**
4) Charge Documents	**Exhibit-4 Series**
5) Personal Letter of Guarantees	**Exhibit-5 Series**
6) Legal Notice with Postal Receipt	**Exhibit-6 Series**
7) Account statement	**Exhibit-7**

On the other hand, the defendants examined 01 witnesses namely **Md. Shamim as D.W.1** before this court **but he did not** produce any documents before the court.

Decision with Reasons

Issue nos. 1-3:

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 banking company duly incorporated under the Companies Act of Bangladesh 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.

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 **33,52,739.51/- (Taka Thirty Three Lac Fifty Two Thousand Seven Hundred Thirty Nine Point Fifty One) as on 31.05.2023.**

Despite repeated reminders, the defendants failed to discharge the said liabilities. Ultimately, the plaintiff issued Legal notice on **25.05.2023**, 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 **25.05.2023**, and the instant suit having been filed on **09.07.2023**, 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.

Issue No: 4 & 5 :

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 admittedly the plaintiff is a duly incorporated banking company, 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. Mostafa is** the borrower, while Defendant Nos.2 & 3 executed deeds of 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 G. M Selim Reza**, 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-3**, being the sanction letter dated **29.09.2019**, it clearly transpires that upon application and request of Defendant No.1, the plaintiff sanctioned a term loan facility amounting to **Tk. 40,00,000/- (Taka Forty Lac only)** in favour of Defendant No.1 subject to specified terms and conditions. The charge documents marked **Exhibit-4 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.

The legal notice with postal receipt marked **Exhibit-6 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-7**, maintained in the ordinary course of financial business, clearly reveals that as on **31.05.2023** the total outstanding dues stood at **Tk. 33,52,739.51/-** 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.

On the other hand, the defendants contested the suit by filing written statement wherein they admitted availing the loan facility of **Tk. 40,00,000/-** from the plaintiff institution. The statement that he just signed the bank papers but he does not know about the loan, clearly proves the loan transection availed by defendant No.1. They did not directly deny the loan amount and agreed to pay the outstanding dues upon mutual arrangement.

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.

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. 2-3, having voluntarily executed guarantee obligations, are jointly and severally liable together with Defendant No.1 for repayment of the decretal dues.

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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. 33,52,739.51/- (Taka Thirty Three Lac Fifty Two Thousand Seven Hundred Thirty Nine Point Fifty One) as on 31.05.2023** 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 No.3 and ex-party against the other defendants with costs for an amount of **Tk. 33,52,739.51/- (Taka Thirty Three Lac Fifty Two Thousand Seven Hundred Thirty Nine Point Fifty One) as on 31.05.2023.**

The Plaintiff shall be entitled to receive the said amount together with interest or profit as applicable under the prevailing laws or rules from 09.07.2023, 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.