ARM 853 of 2023.

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 September, 2026.

Artha Rin Suit No. 853 of 2023.

Meghna Bank Limited----------Plaintiff
-Versus-
Md. Shamsuddin Khan & others----------Defendants

This case came up for final hearing on: 20.01.2025, 02.07.2025, 17.05.2026 & 09.08.2026.

In presence of :
Mr. Md. Nurul Karim----------Advocate for Plaintiff.
Mr. Ali Azam Khan----------Advocate for Defendant.
And having stood for consideration to this day, the court delivered the following judgment:-

The plaintiff **Meghna Bank Limited** filed this present suit under the Artha Rin Adalat Ain, 2003 for recovery of **Tk. 18,84,203.13 (Taka Eighteen Lac Eighty Four Thousand Two Hundred Three Point One Three) as on 01.06.2022.**

Plaintiff's Case in Brief:

The plaintiff, **Meghna Bank Limited**, is a banking company incorporated under the applicable laws of Bangladesh. The defendant No.1 is the borrower and mortgagor, while the defendant Nos.2 and 3 are the personal guarantors of the loan facility availed by defendant No.1.
The defendant No.1 applied to the plaintiff Bank on 11.12.2014 for sanction of a **Cash Credit (Hypo) facility of Tk.13,00,000/-**. Upon completion of the requisite formalities, the plaintiff sanctioned the said facility vide sanction letter Ref. No. MGBL/BBB/CRM/2014/06 dated 28.12.2014, repayable by 31.12.2015, subject to

creation of a legal mortgage over 1.50 decimals of land situated at Pathentek Mouza, Gazipur. The defendants accepted the terms and conditions and executed the necessary charge documents, including Letter of Arrangement, Demand/Promissory Note, General Letter of Hypothecation, Letter of Set-off/Lien, Undertaking and personal guarantees. Defendant No.1 also executed a registered Deed of Mortgage No.277 dated 08.01.2015 and an Irrevocable Power of Attorney Deed No.278 dated 08.01.2015 in favour of the plaintiff Bank. Thereafter, the entire sanctioned facility was duly disbursed and availed by defendant No.1.

At the request of defendant No.1, the facility was subsequently renewed from time to time by sanction letters dated 02.02.2016, 19.03.2017 and 19.03.2018, and the defendants executed the requisite renewal and security documents and reaffirmed their respective liabilities.

Subsequently, the defendants became irregular in repayment and failed to discharge the outstanding liabilities despite repeated demands and reminders dated 01.04.2019, 29.04.2019, 24.06.2019 and 16.07.2019. The loan account was consequently classified as **Bad and Loss**. Despite final notice dated 03.11.2020 and legal notice dated 07.12.2021, the defendants failed to liquidate the outstanding dues.

The plaintiff thereafter took steps under section 12(3) of the Artha Rin Adalat Ain, 2003 for sale of the mortgaged property by publishing auction notices, but no bidder came forward and the property could not be sold. Further legal notice was also served upon the defendants, but without result.

As on **01.06.2022**, a sum of **Tk.18,84,203.13** remained outstanding. The defendants, being the borrower, mortgagor and guarantors, are jointly and severally liable to repay the said outstanding amount. Hence, the plaintiff has been constrained to institute the present suit for realization of its lawful dues together with interest, costs and other reliefs permissible under law.

On the other hand, the defendant Nos. 1, 2 and 3 have contested the suit by filing a written statement. Their case, in brief, is 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. They have further contended that the suit is barred by limitation.

The defendants state that defendant No. 1 is a businessman who, for the purpose of facilitating his business transactions, obtained a loan of Tk. 13,00,000/- from the plaintiff, Meghna Bank Limited, in the year 2014. Against the said loan liability, defendant No. 1 allegedly repaid a total sum of Tk. 11,18,330/- on different dates. Defendant Nos. 2 and 3 stood as personal guarantors in respect of the said loan account.

It is further contended that the plaintiff, without giving due credit to the payments made by defendant No. 1 and without showing the correct outstanding liability, has submitted an exaggerated and concocted statement of account. The defendants further state that the plaintiff has already instituted another case against defendant No. 1 in respect of the same loan transaction, which is presently pending before the learned 6th Joint Metropolitan Sessions Judge Court, being Sessions Case No. 15297 of 2022 under section 138 of the Negotiable Instruments Act. According to the defendants, the plaintiff is not entitled to any of the reliefs sought in the present suit and, as such, they have prayed for dismissal of the suit with costs.

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. Rakibul Hasan 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) Sanction Letters	**Exhibit-2 Series**
3) Deed of Mortgage & IGPA	**Exhibit-3 Series**
4) Charge Documents	**Exhibit-4 Series**
5) Reminder Letter	**Exhibit-5**
6) Legal Notice with Postal Receipt	**Exhibit-6 Series**

7) Account statement	**Exhibit-7**
8) Copy of Judgment & Decree	**Exhibit-8 Series**
9) Paper Publication	**Exhibit-9**

On the other hand, the defendants examined 01 witnesses namely **Md. Shamsuddin Khan as D.W.1** before this court**. During examination of D .W.1 t**he following documents were produced and proved, which have been marked as Exhibits:-

01. Money Receipt	**Exhibit-1**
02. Photocopy of Pay-Order	**Exhibit-2**

Decision with Reasons

Issue nos. 1-3: 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 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 **18,84,203.13 (Taka Eighteen Lac Eighty Four Thousand Two Hundred Three Point One Three) as on 01.06.2022.**

Despite repeated reminders, the defendants failed to discharge the said liabilities. Ultimately, the plaintiff issued Legal notice on **22.03.2022**, 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 **22.03.2022**, and the instant suit having been filed on 29.06.2022, 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. All the aforesaid issues are therefore answered in favour of the plaintiffs.

Issue No: 4 & 5 : Whether the plaintiff Bank is entitled to recover the claimed amount from the defendant? + Whether the plaintiff Bank 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.

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. Shamsuddin Khan 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 Md. Rakibul Hasan**, 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 **28.12.2014**, it clearly transpires that upon application and request of Defendant No.1, the plaintiff sanctioned Cash Credit (Hypo) limit for amounting to **Tk. 13,00,000/- (Taka Thirteen Lac only)** in favour of Defendant No.1 subject to specified terms and conditions.

In view of **Exhibit-4 Series , Exhibit- 5 Series, Exhibit- 6 Series and Exhibit-7 Series** , it appears that at the request of defendant No.1, the facility was subsequently renewed from time to time by sanction letters dated 02.02.2016, 19.03.2017 and 19.03.2018, and the defendants executed the requisite renewal and security documents and reaffirmed their respective liabilities.

The charge documents marked **Exhibit-4 to 7 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 Reminder Letter **[Exhibit-8 Series]** & the legal notice with postal receipt marked [**Exhibit-9] 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-10 Series**, maintained in the ordinary course of financial business, clearly reveals that as on **01.06.2022** the total outstanding dues stood at **Tk. 18,84,203.13/-** 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.

The principal defence of the defendant is that the defendant No.1 repaid an aggregate amount of **Tk. 11,18,330/-** against the credit facility before filing of the suit. After this suit he further made payment but it was not reflected in the account statement. In support of such contention, he produced a deposit slip marked **Exhibit-1 and photocopy of Pay Order Slip marked Exhibit-2** which clearly demonstrate that after 01.06.2022, i.e., after the date up to which the plaintiff prepared its statement of

account, the defendant made several payments amounting to TK.5,000/- on 20.06.2022, and TK.1,88,450/- on 01.02.2024 in regard to Misc case No.02/2024 in favor of plaintiff bank. Since these payments were made subsequent to the date of the plaintiff's statement of account, they could not have been reflected therein. In the interest of fairness, equity and justice, these subsequent payments deserve due adjustment against the decretal claim.

Accordingly, after deducting **Tk.193450/-** from the outstanding amount of Tk. 18,84,203.13/-, the amount lawfully recoverable by the plaintiff stands at Tk. **16,90,753.13/-**.

The evidence on record further establishes that due to persistent default in repayment, the defendant's loan account became irregular and the outstanding liability became recoverable in accordance with the terms of the loan agreement and the provisions of the Artha Rin Adalat Ain, 2003. The plaintiff has successfully proved the sanction of the loan, execution of the loan documents, persistent default, service of legal demand and the amount outstanding. On the contrary, the defendant has failed to prove her plea of complete adjustment or full repayment by any reliable and convincing evidence.

Having independently assessed the pleadings, oral testimony, documentary exhibits and the admissions made by the parties, this Court is satisfied that the plaintiff has discharged the burden of proof imposed by law. The defendant has failed to rebut the plaintiff's documentary evidence except to the extent of proving subsequent payments amounting to Tk. **Tk.193450/-** which have already been duly adjusted.

Accordingly, this Court holds that the plaintiff has successfully established its claim to the extent of **Tk. 16,90,753.13/-**. The issues are therefore decided in favour of the plaintiff and against the defendant. The plaintiff is entitled to recover the said amount together with interest, costs and other consequential reliefs in accordance with the provisions of the Artha Rin Adalat Ain, 2003.

In result the case succeeded.

Court Fee paid is correct

Hence,

It is Ordered

That the present suit be decreed on part on contest against Defendants with costs for an amount of **Tk. 16,90,753.13/- (Taka Sixteen Lac Ninety Thousand Seven Hundred Fifty Three Point One Three)**.

The Plaintiff shall be entitled to receive the said amount **together with interest or profit as applicable under the prevailing laws or rules from 29.06.2022**, 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.