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IN THE SUPREME COURT OF BANGLADESH

HIGH COURT DIVISION

(CIVIL REVISIONAL JURISDICTION)

Dated: The 05th day of January, 2023.

Present:

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Mohi Uddin Shamim

Civil Revision No. 872 of 2016.

In the matter of:

An application under Section 115(1) of the Code of Civil Procedure (Against Order) for setting aside the Judgment and order dated 21.03.2016 passed by the learned Joint District Judge, Fifth Court Dhaka in Title Suit NO.121 of 2016.

And

In the matter of:

I.K S Industires Limited represented by its Managing Director and others

..... Petitioners

-Versus-

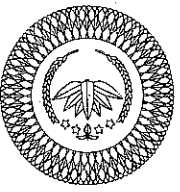
1.Bangladesh Bank, represented by Governor and others

..... Opposite Parties

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বাংলাদেশ
জাতির ঐক্য



স্বাধীন
জাতি

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL REVISIONAL JURISDICTION)

CIVIL REVISION NO. 872 OF 2016

In the matter of:

An application under Section 115(1) of the Code of Civil Procedure.

AND

In the matter of:

K S Industries Limited represented by its Managing Director of 30/31 and 170 Bayejeed Bostami Industrial Area, Chittagong and others

.... Petitioners

-Versus-

Bangladesh Bank represented by Governor, Motijheel Commercial Area and others

....Opposite-parties

None appears

... For the petitioners

Mr. Shaikh Mohammad Zakir Hossain, Advocate

....For the opposite-party no. 4

Heard on 04.01.2023.

Judgment on 05.01.2023.

Present:

Mr. Justice Md. Mozibur Rahman Miah

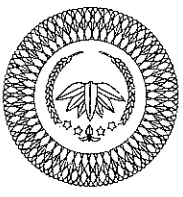
And

Mr. Justice Mohi Uddin Shamim

Md. Mozibur Rahman Miah, J.:



বাংলাদেশ
অর্থনৈতিক



আইন
সংক্রান্ত

This rule was issued calling upon the opposite-parties to show cause as to why the judgment and order dated 21.03.2016 passed by the learned Joint District Judge, 5th Court, Dhaka in Title Suit No. 121 of 2016 rejecting the plaint should not be set aside and/or such other or further order or orders be passed as to this court may seem fit and proper.

At the time of issuance of the rule, this court also stayed the operation of the publication of the names of the plaintiffs-petitioners in the CIB report of Bangladesh Bank for a period of 6(six) months.

The precise facts so described in the revisional application are:

The petitioners as plaintiffs originally filed a suit being Title Suit No. 121 of 2016 before the court of learned Joint District Judge, 5th Court, Dhaka for declaration to the effect that, the enlistment of the names of the present petitioners in the CIB by the defendant nos. 1 and 2 is illegal and not binding upon the said plaintiffs contending *inter alia* that, the plaintiffs are not defaulting-borrowers having no occasion to refer the name by the present opposite-party no. 3 to Bangladesh Bank for enlistment in the CIB report under section 27ka ka of Bank Companies Act, 1991. However, the said plaint was taken up for hearing by the learned Joint District Judge and vide impugned order dated 21.03.2016 rejected the said plaint..It is at that stage, the plaintiffs as petitioners came before this court by filing this revisional application under section 115(1) of the Code of Civil Procedure and obtained the instant rule and order of stay.

Though the matter has been appearing at the top of the list for hearing with the name of the learned counsels for the petitioners and that of



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the opposite-party no. 4 but none appeared for the petitioners either yesterday or today to press the rule.

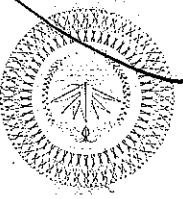
On the contrary, Mr. Sheikh Mohammad Zakir Hossain, the learned counsel appearing for the opposite-party no. 4 by taking us to the impugned order mainly contends that, under the provision of section 27 ka of Bank Companies Act, 1991 as well as article 41 (2) of the Bangladesh Bank Order, 1972, there has been no scope on the part of the present petitioners to challenge the validity of include their names in the CIB report as the said article put clear bar in entertaining any legal proceeding relating to any action taken by the bank including gathering "Credit Information" as provided in Chapter IV thereof.

The learned counsel also contends that, since the suit was dismissed so the petitioner ought to have preferred an appeal and on two legal counts, the rule is liable to be discharged.

We have considered the submission so placed by the learned counsel for the opposite-party no. 4 and perused the revisional application. On going through the revisional application in particular, the grounds couched thereof, we don't find any legal ground for which the impugned order can be called in question. On top of that, since the suit was dismissed so it is treated as decree and an appeal is to be preferred not civil revision. Moreover, since it has already settled by this bench in the case of *Shirajul Islam Mollah and another-vs-Bangladesh Bank and others reported in 73 DLR (HCD) 554* settling the point of maintainability of suit, so we are not inclined to go into any factual aspect of the case right at this moment.



আজাদেশ
কর্তৃপক্ষ



কর্তৃপক্ষ

Accordingly, the rule is discharged however without any order as to costs.

In any event, the order of stay granted at the time of issuance of the rule stands recalled and vacated.

Let a copy of this order be communicated to the learned Joint District Judge, 5th Court, Dhaka forthwith.

Mohi Uddin Shamim, J.

Md. Mozibur Rahman Miah

I agree

Mohi Uddin Shamim

Asifur

Type by: Asiful: 09.03.2023

Read by:

Exd by:

প্রত্যাহিত অস্ফলিত পতিলিপি

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সহকারী-রেজিস্ট্রার

বাংলাদেশ মুখ্য কোর্ট হাইকোর্ট বিজ্ঞপ্তি
(২০২৩-ইং সনের ১নং আইনের)

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