



31.10.24 23.01.25, 23.1.25, 23.01.25, 23.01.25

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)

WRIT PETITION NO. 1278 OF 2024

IN THE MATTER OF:

An application under Article 102 of the
Constitution of the People's Republic of
Bangladesh

And

IN THE MATTER OF:

Foyezun Nabi Chawdhury

- Petitioner

-vs-

learned Joint District Judge and others.

- Respondents.

And

Mr. Muhammad Saifullah Mamun, Advocate
..... for the Petitioner.

Mr. Raziah Sultana, Advocate

..... For the Respondent No.2.

Heard and Judgment on 29.10.2024.

Present:

Mr. Justice Md. Bazlur Rahman

and

Mr. Justice Syed Mohammed Tazrul Hossain

Md. Bazlur Rahman, J:

In this writ, a Rule Nisi was issued in the following terms-

“ Let a Rule Nisi be issued calling upon the respondents
to show cause as to why the impugned Order No.7 dated
17.01.2024, passed by the learned Judge, Artha Rin Adalat

[Signature]

“দেশপ্রেমের শপথ নিব, দুর্নীতিকে বিদায় দিন”



বাংলাদেশ
কোর্ট ফি



দুই
টাকা

No.1, Gazipur in Artha Jari Suit No.33 of 2023, as evidenced by Annexure-C-1, rejecting the petitioner's application for adjournment for submission of written statement as defendant No.2, as evidenced by Annexure-C, shall not be declared to have been passed without lawful authority and to be of no legal effect."

2. Summarized texts leading to the better understanding of the Rule are that an execution case was pending against this judgment-debtor petitioner in the Artha Rin Adalat No.1, Gazipur which was initially instituted in the Artha Rin Adalat No.1, Dhaka. Subsequently, at the instance of the petitioner, the file of the execution case was transferred from the relevant court at Dhaka to that at Gazipur due to executable property's location at Gazipur. While the execution case was pending before the Artha Rin Adalat No.1, Dhaka, this petitioner entered appearance first on 13.12.2020 with an application to file written objection. Despite frequent adjournments, this petitioner failed to file written objection. Meanwhile, the file was transferred to the relevant Court at Gazipur. However, the petitioner had been lastly debarred from filing such written objection on 17.01.2024 against the decree impugned in the original Artha Rin Suit No.414 of 2013 challenging which the petitioner has moved this Court under writ jurisdiction and obtained the aforesaid Rule.

3. Mr. Muhammad Saifullah Mamun, the learned Counsel appearing for the petitioner, submits that due to unavoidable circumstances the

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petitioner could not be able to file written objection within time set by the Court. If he is allowed any gratuitous opportunity for the last time, he would be cautious to file written objection in time. In case of failure, the learned Court will dispose of the proceedings at the quickest time it wills.

4. Ms. Raziah Sultana, the learned Counsel appearing on behalf of respondent No.2, the lender bank, opposes the Rule that the petitioner in spite of having awarded frequent opportunities of submitting written objection in the execution case failed to file the same out of his willful negligence and latches. So the petitioner is not entitled to receive the sympathy in any manner from this Court.

5. On examination of the record, it appears that Artha Rin Suit bearing No.414 of 2013 has been decreed on contest with this petitioner and others. Even there is no substantial allegation against the decree passed by the court. It is stated in the writ petition that had he not been provided with any opportunity of filing written objection, his interest in the subject matter of execution would be seriously prejudiced. Of course, it is not clear from the assertion how his such interest would be affected if he is barred from filing any written objection. Since the petitioner is trying always to file written objection in the execution proceedings, it is apparent from the record that it was this petitioner at whose instance the execution case had been transferred from a court at Dhaka to a court at Gazipur to properly dispose of the execution proceeding by competent court. It



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may be mentioned that the execution case was pending in a court where the decreed property was not situated. Accordingly, for proper execution of the decree it was transferred to the court situated at Gazipur under which territorial jurisdiction the property is situated. Since the petitioner is trying to file written objection for proper dispensation of execution case, he may be allowed for ends of justice a last chance for filing written objection without any further opportunity to file any adjournment petition and if so, he would be conclusively barred from taking any such steps in the execution proceedings.

7. In the above facts and circumstances, the petitioner may be directed to file written objection in the execution proceeding within 15(fifteen) days without any fail after the receipt of a copy of this judgment and order by the executing court.

8. Accordingly, the Rule is disposed of with the above observation and direction.

9. Communicate the order at once.

Md. Bazlur Rahman
(Md. Bazlur Rahman, J)

I agree.

Syed Mohammed Tazrul Hossain
(Syed Mohammed Tazrul Hossain, J)

Typed by: Sayed, 23.01.2025

Read by: 23.01.25

Exam.by: 23.01.25

Readied by: 23.01.25

23.01.25

সুজানা আমিন

23.01.25
Nasima Khatun
Superintendent

প্রত্যায়িত অবিকল প্রতিলিপি

23.01.25
সহকারী রেজিস্ট্রার
বাংলাদেশ সুপ্রীম কোর্ট, হাইকোর্ট বিভাগ
(১৮৭২ ইং সনের ১নং আইনের
৭৬ ধারামতে ক্ষমতা প্রাপ্ত)

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