In the Supreme Court of Bangladesh

High Court Division

(Special Original Jurisdiction)

Writ Petition No. 5665 of 2006

IN THE MATTER OF:

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

-AND-

IN THE MATTER OF:

Md. Jamilur Rahman

.....Petitioner

-Versus-

Government of Bangladesh and others

.....Respondents

Mr. Goutam Kurman Roy, Advocate

...for the petitioner

None appears.

...for the Respondent

Heard on 10.11.2022 and Judgment on 05.01.2023

Present

Mr. Justice Abu Taher Md. Saifur Rahman

And

Mr. Justice A.K.M. Rabiul Hassan

Abu Taher Md. Saifur Rahman, J:

This Rule was issued on an application filed by the petitioner under Article 102 of the constitution, calling upon the respondents to show cause as to why Section 34 of Artha Rin Ai, 2003 (Act-VIII of 2003) shall not be declared to be ultra vires the Constitution and why order No. 6 dated 13.04.2006 (Annexure-B) passed by the learned Artha Rin Adalat , 4th Court, Dhaka in Artha Execution Case No. 654 of

2005 arising out of Artha Rin Suit No. 72 of 2004 issuing the warrant of arrest against the petitioner shall not declared to have been passed without any lawful authority and is of no legal effect and/or pas such other or further order or orders as to this Court may seem fit and proper.

For the purpose of disposal of this Rule, the relevant facts may briefly be stated as follows:

On perusal of the petitioner's application, it transpires that the respondent bank for realization ..... respondent No. 3 Rupali Bank Limited as plaintiff filed an Artha Rin Suit No. 72 of 2004 for realization the loan amount of Tk. 31,62,794/92 which was decreed vide its judgment and order dated 07.05.2005. Thereafter of said decree filed an Artha Jari Case being No. .....during the stay on .....warrant of arrest before this Court.

Mr. Goutam Kumar Roy, the learned Advocate for the petitioner submits that.....

None appears for the respondent to oppose the Rule.

On perusal of the petitioner's application it transpires that there is no mortgaged property and during proceedings of the Artha Jari

Case the application filed by the petitioner decree-holder bank issuing warrant of arrest. The petitioner did not deposit any money in favour of the decree-holder bank. Accordingly, the petitioner filed an application before the decree-holder bank and the execution Court below issued warrant of arrest against the petitioner. Since there is no mortgaged property and accordingly the execution Court below rightly issued the warrant of arrest.

Having regard to the facts and circumstances of the reasons as stated above, we do not find any substances of this Rule.

As a result, the Rule is discharged.

However, there is no order as to costs.

Communicate this judgment and order at once.

A.K.M. Rabiul Hassan, J

I agree