

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

Present:

Mr. Justice S M Kuddus Zaman

And

Ms. Justice Tamanna Rahman Khalidi

CIVIL REVISION NO.4646 of 2023.

In the matter of:

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

And

Prokaushal Projukti and M/S
Quashem Construction (JV),
Dhaka

...Petitioner

-Versus-

The Executive Engineer, Local
Government Engineering
Department (LGED) Rangpur and
others

...opposite parties

No one appears

.....For both the parties

Heard & Judgment on: 23.04.2026.

S M Kuddus Zaman, J

This Rule was issued calling upon the opposite parties to show cause as to why order No.02 dated 10.09.2023 passed by the learned District Judge, Dhaka in Arbitration Miscellaneous Application No.449 of 2023 is tantamount to and deeming to be a rejection of the application under Section 7A of the Arbitration Act, 2001 for an order of injunction should not be set aside and/or pass such other or

further order or orders as to this Court may seem fit and proper.

Facts in short are that the petitioner as petitioner filed above petition under section 7Ka of the Arbitration Act, 2001 for an order of injunction restraining the opposite party from cancellation of his work order and encashment of bank guarantee. It was alleged that the petitioner became the lowest bidder for construction of a bridge over the Kartoa river on 14.05.2008 and received notification of award from the opposite party and after submission a bank guarantee of Tk.1,51,55,738.53 received work order and initiated construction work. Due to outbreak of Covid epidemic price of all building materials suddenly escalated and the petitioner sought revision of the price of materials as was provided in the tender document. But the opposite party did not take any positive initiative and despite conclusion of 77% of the construction work most illegally proceeded to invite fresh bid for completion of remaining construction work and encashment of above bank guarantee.

The petitioner invoked clause No.94 of above deed of contract for resolution of above dispute through arbitration and issued a notice to the

opposite party under Section 12 of the Arbitration Act on 16.08.2023. The opposite party did not respond to above notice.

On consideration of submissions of the learned Advocate for the petitioner and materials on record the learned District Judge directed for issuance a notice upon opposite party Nos.1-3 asking them to show cause as to why an order of temporary injunction should not be passed against them but did not pass an ad-interim of injunction.

Being aggrieved by and dissatisfied with above judgment and order of the learned District Judge above petitioner as petition moved to this court with this civil revisional application under section 115(1) of the Code of Civil Procedure, 1908 and obtained this rule and an ad-interim order of status-quo.

No one appears at the time of hearing of this rule although this matter appeared in the list for hearing.

We have carefully examined the impugned judgment, the petition filed under Section 7Ka of the Arbitration Act, 2001 and all other materials on record.

It turns out from record that the petitioner became the lowest bidder for construction of above bridge and received a notification of award on 14.05.2023. The petitioner has produced contract No.CIB-Ran-W-37 dated 29.05.2018 for construction of Girder Bridge over the Kartoa River for Tk.30,14,770.512 and clause 94 of above contract provides for arbitration for settlement any despite arising out of above contract.

The petitioner has stated that a dispute arose for not increasing the price of building materials as provided in the tender document and for settlement of above dispute through arbitration he appointed his Arbitrator and issued a notice upon the opposite party under Section 12 of the Arbitration Act, 2001 for appointment of Arbitrator. It has been further stated that the opposite parties did not respond to above notice for Arbitration but trying to cancel above contract and encash the bank guarantee. The petitioner sought an order of ad-interim injunction so that the opposite party may not cancel above contract and encash the bank guarantee before conclusion of the arbitration proceedings.

A petition under Section 7Ka of the Arbitration Act, 2001 ordinarily involves an element of urgency and requires immediate measures. The objective of such an order is to prevent any endeavor or action by any party to change or remove the subject matter of arbitration or make the arbitration proceedings difficult or unjustly influenced in favour of any party. Since the petitioner has initiated arbitration proceedings by issuing a notice under Section 12 of the Arbitration Act, 2001 the learned District Judge should have ensured that the subject matter and other circumstances of the dispute remains unchanged until conclusion of the arbitration proceedings. But the learned District Judge has failed to appreciate above materials on record properly and most erroneously refrained from passing an ad-interim order of injunction which is not tenable in law.

In above view of the materials on record we find substance in this civil revisional application and the rule issued in this connection deserves to be made absolute.

In the result, the rule is made absolute.

The impugned order dated 10.09.2023 passed by the learned District Judge, Dhaka in Arbitration

Miscellaneous Application No.449 of 2023 so far it relates to not passing an order of ad-interim order of injunction is set aside. Opposite party Nos.1-3 are directed to maintain status-quo as to above contract and bank guarantee of the petitioner until disposal of above petition under Section 7Ka of the Arbitration Act, 2001 by the learned District Judge on merit. Learned District Judge is directed to dispose of above petition in accordance with law within a period of 02 (two) months from the date of receipt of this order.

Let a copy of this judgment be transmitted down to the Court concerned at once.

Tamanna Rahman Khalidi, J

I agree