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

**Writ Petition No. 2500 of 2025**

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. Shamim Hossain
... Petitioner

-Versus-

The Judge, Artha Rin Adalat No.03, Dhaka and another
... Respondents

Mr. Md. Mamun Hossain, Advocate
…For the petitioner

Mr. Md. Asadur Rahman, Advocate
... For the respondent No.02

**Heard on : 24.07.2025 & 07.08.2025 and**

**Judgment on : 11.08.2025**

**Present:**

Justice Sardar Md. Rashed Jahangir
And
Justice Md. Abdul Mannan

**Sardar Md. Rashed Jahangir, J:**

The Rule Nisi was issued on an application under article 102 of the Constitution of the People's Republic of Bangladesh on 18.02.2025 as follows:

"অর্থঋণ আদালত নং-০৩, ঢাকা কর্তৃক অর্থজারী মামলা নং-৯৩২/২০১৭-এ প্রদত্ত বিগত ইংরেজী ২৯.০১.২০২৫ তারিখের আদেশ (সংযুক্তি-ই) আইনগত কর্তৃত্ব ব্যতিরেকে প্রদত্ত হয়েছে

এবং এর কোন আইনগত কার্যকারিতা নাই মর্মে কেন ঘোষণা করা হবে না এবং অত্র আদালত কর্তৃক সঠিক এবং যথাযথ মনে করলে অন্যান্য বা অতিরিক্ত আদেশ বা আদেশসমূহ কেন প্রদান করা হবেনা মর্মে প্রতিপক্ষদ্বয়ের প্রতি কারণ দর্শানো পূর্বক ***রুল নিশি*** প্রেরণ করা হোক"

The respondent No.2 filed Artha Jari Case No. 932 of 2017 in the Court of Third Artha Rin Adalat, Dhaka for executing the judgment and decree dated 17.09.2017 passed by the Artha Rin Adalat No. 3, Dhaka in Artha Rin Suit No. 736 of 2015. In the said 'Jari Case' at the instance of the decree-holder-bank an order of civil imprisonment was passed on 20.05.2019 against the judgment-debtor-petitioner under section 34 of the Artha Rin Adalat Ain, 2003. Thereafter, on 02.05.2024 the judgment-debtor-petitioner was produced before the Artha Rin Adalat and on the same date an application for bail was submitted on behalf of the petitioner upon depositing 25% of the outstanding dues i.e. Tk.50,500/- through pay order No.1521997 dated 02.05.2024 and accordingly, the respondent No. 1 by his order released the petitioner from civil confinement under the provision of section 34(6) of the Artha Rin Adalat Ain, 2003. Thereafter, on 18.09.2024 the decree-holder-respondent No. 2 filed an application under section 34(7) of the Artha Rin Adalat Ain, 2003 for awarding an order of civil imprisonment afresh against the judgment-debtor.

On the other hand, the judgment-debtor-petitioner by filing an application prayed for time to make further payment. On 03.10.2024, the application of decree-holder-bank filed under section 34(7) of the Artha Rin Adalat Ain, 2003 was taken up for hearing and after hearing, the petitioner was awarded civil imprisonment for 6(six) months afresh under section 34(7) of the Artha Rin Adalat Ain, 2003. On 29.01.2025 after securing arrest the judgment debtor was produced before the respondent No.1 and the judgment-debtor by filing an application sought for granting bail and the Adalat upon hearing rejected the said application.

Challenging the aforesaid order the judgment-debtor-petitioner filed this writ petition and obtained the Rule on 18.02.2024.

From the record, it appears that the judgment-debtor-petitioner filed this writ petition challenging an order of the Artha Rin Adalat No.3, Dhaka in Artha Jari Case No. 932 of 2017 rejecting the application for bail upon recalling the warrant of arrest issued earlier under section 34(7) of the Artha Rin Adalat Ain, 2003.

The Artha Rin Adalat Ain, 2003 is a special legislation enacted for the purpose of recovery of the loan forwarded by financial

institution or banking company and in the process of recovery of the loan and in order to compel the judgment-debtor to pay the outstanding dues, he may be confined in civil imprisonment upto 6(six) months under section 34 of the Ain, 2003. Under sub-section (6) of section 34, it is further stipulated that if the judgment-debtor upon depositing 25% of the outstanding dues, accompanied with a bond promising that he will deposit rest of the outstanding dues within 90(ninety) days, then the Artha Rin Adalat concerned shall release him from the civil confinement subject to the stipulation that within the next 90(ninety) days the judgment-debtor is to make payment the rest. Sub-section (7) of section 34 further stipulated that if the judgment-debtor fails to pay rest of the outstanding dues within the aforesaid 90(ninety) days, then the Artha Rin Adalat shall pass an order of civil imprisonment afresh.

Under the case in hand, the judgment-debtor on 02.05.2024 by depositing 25% of the outstanding dues got release from the civil confinement and upon his prayer the Adalat released him with a direction to make payment rest of the outstanding dues within the next 90 (ninety) days and since the judgment-debtor-petitioner failed to make payment rest of the outstanding dues, as such, on 03.10.2024, the

Artha Rin Adalat No. 3, Dhaka, respondent No. 1 by its order awarded the civil confinement afresh upon the judgment-debtor under section 34(7) of the Artha Rin Adalat Ain, 2003. On a later date i.e. on 21.01.2025 the judgment-debtor-petitioner was produced before the Artha Rin Adalat and on his behalf an application for bail upon recalling the order of civil imprisonment as well as the warrant of arrest was filed and the Adalat after hearing the said application by his order rejected the same, since, the judgment-debtor-petitioner failed to comply with the provision of 34 (6) (7) of the Artha Rin Adalat Ain, 2003, thus, the Court had no alternative but to reject his application. We find no illegality in the order of the Artha Rin Adalat No.3, Dhaka.

Accordingly, the Rule is discharged without any order as to cost.

The interim order of stay is hereby recalled.

No order as to cost.

Communicate the judgment and order at once.

**Md. Abdul Mannan, J:**

I agree.

Md. Saifullah A.B.O.