

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(Civil Appellate Jurisdiction)**

First Miscellaneous Appeal No. 92 of 2024

In the matter of:

Mohammad Nizam Uddin, Proprietor of Nizam Shipping Lines of Nawab Mansion (2nd Floor), 15 Purana Paltan, Barishal.

... Appellant

-Versus-

Janata Bank Limited represented by its Managing Director of 110, Motijheel Commercial Area, Dhaka-1000 and others.

... Respondents.

No one appears

... For the appellant

Mr. Ibrahim Sarker, Advocate

.... For the respondent no. 1

Mr. S.M. Rafiqul Islam Rabbi, Advocate

.... For the respondent no. 6

Heard and Judgment on 01.06.2025.

Present:

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Md. Bashir Ullah

Md. Mozibur Rahman Miah, J.

At the instance of the plaintiff in Title Suit No. 473 of 2023, this appeal is directed against the judgment and order dated 17.08.2023 passed by the learned Joint District Judge, 5th Court, Dhaka in the said suit rejecting an application filed under order XXXIX, rule 1 and 2 read with

section 151 of the Code of Civil Procedure for restraining the respondents from reporting, publishing, showing and circulating the name of the plaintiff-appellant in the CIB report of Bangladesh Bank showing it as defaulter-borrower.

The short facts leading to preferring this appeal are:

The present appellant as plaintiff filed the aforesaid suit impleading the present respondents and others seeking following reliefs:

“(a) A decree declaring the continued adverse reporting, publishing, showing and circulating the names of the plaintiffs as loan defaulters in the CIB report of Bangladesh Bank is illegal, malafide and not binding upon the plaintiffs and to maintain unclassified status of the plaintiffs.

(b) Any other relief or reliefs to which the plaintiffs are entitled to in law and equity.

(c) Further or other relief to which the plaintiffs are entitled to as per equity.”

After filing of the suit, the plaintiff also filed an application for order of injunction under order XXXIX, rule 1 and 2 read with section 151 of the Code of Civil Procedure for restraining the defendants-respondents from reporting, publishing, showing and circulating the names of the plaintiff-petitioner in the CIB report of Bangladesh Bank. However, the said application for injunction so filed by the appellant as plaintiff was taken up for hearing and vide order dated 17.08.2023, the said application was rejected against which the plaintiff as appellant preferred this appeal.

None appeared for the appellant to press the appeal though the matter has been appearing at the top of the list for hearing with the name of the learned counsels for the parties.

On the contrary, Mr. Ibrahim Sarker and Mr. S.M. Rafiqul Islam Rabbi, the learned counsels appearing for the respondent nos. 1 and 6 respectively upon taking us to the memorandum of appeal at the very outset submits that, since there has been a legal embargo so provided in article 41 (1) and (2) as well as Chapter IV of Bangladesh Bank Order, 1972 to challenge the inclusion of the name of any defaulting-borrower in the CIB report, so there has been no scope on the part of any court of law to entertain any legal proceeding therein let alone pass any interim order which cannot be sustained in law.

The learned counsel further contends that, under section 27ka ka of Bank Companies Act, 1991, it is the creditor-bank who is duty bound to transmit the name of the defaulting borrower to the Bangladesh Bank and Bangladesh Bank in its turn circulate the name of the said defaulting borrower to all the bank and financial institutions of the country having no scope to interfere with the action taken by the bank. On those two legal counts, the learned counsel finally prays for dismissing the appeal.

We have considered the submission so advanced by the learned counsels for the respondent nos. 1 and 6 and perused the memorandum of appeal including the impugned order. Apart from the statutory legal provision putting legal bar in challenging inclusion of the defaulting borrower in the CIB report as stated hereinabove in the meantime to fortify the said embargo, it has already been settled by this court in the decision

reported in 73 DLR (HCD) 554 that, there has been no scope to challenge the enlistment of any defaulting-borrower in the CIB report. So no suit can lie to that effect as per the provision so have been provided in article 41(1) and (2) as well as Chapter IV of Bangladesh Bank Order, 1972.

So on the basis of the prayer as reproduced hereinabove the suit itself cannot sustain in law if not granting any restrained order on the basis of any publication at the instance of the defaulting-borrower challenging inclusion in the CIB report of Bangladesh Bank.

Given the above legal proposition, we don't find any iota of substance in the appeal.

Accordingly, the appeal is dismissed however without any order as to costs.

Let a copy of this judgment be communicated to the court concerned forthwith.

Md. Bashir Ullah, J:

I agree.