

**IN THE SUPREME COURT OF BANGLADESH  
APPELLATE DIVISION**

**Present:**

Mr. Justice Hasan Foez Siddique, Chief Justice.  
Mr. Justice M. Enayetur Rahim  
Mr. Justice Jahangir Hossain

**CIVIL PETITION FOR LEAVE TO APPEAL NO.511 OF 2018.**

-WITH-

**CIVIL PETITION FOR LEAVE TO APPEAL NO.763 OF 2018.**

(From the judgment and order dated 31.01.2017 passed by the High Court Division in Writ Petition No.9517 of 2016).

Mrs. Hosne Ara

Mrs. Firoza Khatun

Mrs. Firoza Khatun and others

Judge, Artharin Adalat No.1, Dhaka and others

.....Petitioner.  
(In C.P. No.511 of 2018)  
.....Petitioner.  
(In C.P. No.763 of 2018)

.....Respondents.  
(In C.P. No.511 of 2018)  
.....Respondents.  
(In C.P. No.763 of 2018)

-Versus-

**For the Petitioner**

(In C.P. No.511 of 2018)

: Mr. A. M. Masum, Advocate instructed by Ms. Shahanara Begum, Advocate-on-Record.

**For the Petitioner**

(In C.P. No.763 of 2018)

: Mr. Sayed Ahmed, Senior Advocate with Mr. Noor-A-Alam Uzzal, Advocate instructed by Mr. Zainul Abedin, Advocate-on-Record.

**For Respondent No.1**

(In C.P. No.511 of 2018)

: Mr. Sayed Ahmed, Senior Advocate with Mr. Noor-A-Alam Uzzal, Advocate instructed by Mr. Zainul Abedin, Advocate-on-Record.

**For Respondent No.3**

(In both the cases)

: Mr. Sheikh Mohammad Zakir Hossain, Advocate instructed by Mr. Md. Nurul Islam Chowdhury, Advocate-on-Record.

**Respondent Nos.2 & 4**

(In C.P. No.511 of 2018)

: Not represented

**For Respondent No.4**

(In C.P. No.763 of 2018)

: Mr. A. M. Masum, Advocate instructed by Ms. Shahanara Begum, Advocate-on-Record.

**Respondent Nos.1-2**

(In C.P. No.763 of 2018)

: Not represented

**Date of hearing**

: The 05<sup>th</sup> June, 2023.

**ORDER**

These civil petitions for leave to appeal are preferred against the judgment

and order dated 31.01.2017 passed by the High Court Division in Writ Petition

No.9517 of 2016 making the Rule absolute.

It appears that the Agrani Bank Ltd. filed Artha Rin Suit No. 172 of 2004 against Mrs. Feroza Khatun, the petitioner of Civil Petition for Leave to Appeal No. 763 of 2018 and got decree of a sum of Tk. 24,70,257/-. Thereafter, the Bank filed Artha Zari Case No. 13 of 2006 for realization of a sum of Tk.28,91,677/-. In the execution proceedings the decree holder bank prayed for selling the mortgaged property on auction. Mrs. Hosne Ara is the petitioner of the Civil Petition for Leave to Appeal No. 511 of 2018 and respondent No.4 in Civil Petition for Leave to Appeal No. 763 of 2018. She is the auction purchaser of the said mortgaged property offering a sum of Tk. 30,00,000/- which was accepted by the Court. She paid the entire amount and when the decree holder bank was allowed to amend its claim to the tune of Tk.35,70,364/-, she agreed to pay the additional amount of Taka 570,364/-.

However, the judgment-debtor Firoza Khatun filed Writ Petition No. 9517 of 2016 challenging the orders of the executing court dated 20.04.2006 and 24.03.2016. The High Court Division by an elaborate judgment and order dated 31.01.2017 directed the judgment-debtor to pay the entire decretal amount with interest which stands Tk. 64,78,000/- in 12 equal installments within 1(one) year. The bank at the relevant time did not oppose the prayer of the judgment-debtor. Against the said judgment and order of the High Court Division the judgment-debtor Firoza Khatun filed Civil Petition for Leave to Appeal No. 763 of 2018 and auction purchaser Hosne Ara filed Civil Petition for Leave to Appeal No. 511 of 2018 in this Division. This Division while hearing those two matters passed an order on 02.04.2023, directing the judgment-debtor Firoza Khatun to pay a sum of Tk. 64,78,000/- to the auction purchaser Hosne Ara. Pursuant to the said order the judgment-debtor Firoza Khatun issued 3(three) different pay orders totaling the said amount vide pay order Nos. PO 3569042 date 04.06.2023(Southeast Bank Limited), PO-AA 0363707 date 31.05.2023(IFIC Bank Limited) & POB 1925043 date 04.06.2023(Janata Bank Limited) in favour of Mrs. Hosne Ara, the auction

2 We direct Mr. Sayed Ahmed, the learned Counsel appearing on behalf of the judgment-debtor Firoza Khatun to handover those pay orders to the learned Advocate of the auction purchaser Hosne Ara who accordingly <sup>handed over</sup> will handover those pay orders to the auction purchaser Hosne Ara. Since the order of the High Court Division has been complied with, we are inclined to dispose of the instant civil petitions. 2

Accordingly, both the civil petition for leave to appeals are disposed of. The auction purchaser Hosne Ara is entitled to get the pay orders totaling Tk. 64,78,000/- and the bank is directed to withdraw the amount of Tk. 35,70,364/- as deposited by the auction purchaser in the aforesaid execution case.

2 In such view of the matter, the Artha Zari Case No. 13 of 2006 is also hereby disposed of. 2

Sd/- Hasan Foez Siddique, C.J.  
W/- Sd/- Md. Faruk Hossain, J.  
Sd/- Jahangir Hossain, J.

CERTIFIED TO BE A TRUE COPY

The 05<sup>th</sup> June /2023.  
Md. Shahid Ullah

*Md. Shahid Ullah*  
26/06/2023

*Shay 11.07.23*  
Superintendent  
Appellate Division  
Supreme Court of Bangladesh

11-07-2023