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**LAW IN FOCUS**

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**REPORTED CASES CONDUCTED BY CHAMBERS IN 2014**

Important legal interpretations were given and useful directions were passed by the Hon'ble courts in the cases below as conducted by Chambers lawyers. Please log on to <http://www.rahmansc.com/index.php/about-us/reported-cases> for complete reported judgments.

1. **Organizational Restructure:** *Md. Shamsuddin and 254 others vs. Bangladesh reported in 2 CLR (HCD) 523*
2. **International Trade:** *Freight Management and 16 others vs. Bangladesh Bank reported in 2 CLR (HCD) 586*
3. **Admiralty and Maritime claim:** *Marodi Services vs MV Swift Cro. reported in 2 CLR(HCD) (2014) 456*
4. **Arbitration (power plant):** *BPDB vs. Summit Industrial & Mercantile Corporation Ltd & Others reported in 19 BLC(2014)284 and 2 CLR(HCD) (2014)73.*

**ARTICLE:**

**PROTECTION OF MINORITY SHAREHOLDER'S INTEREST**

**Mohammed Forrukh Rahman\***

The private companies which are incorporated in Bangladesh under the Company Act, 1994 are mostly have the following structure: a) the shareholders are members of the same family; b) joint venture between local partners; c) joint venture between local and foreign partner; d) 100% foreign owned.

In case of family owned companies and 100% foreign owned companies, dispute amongst shareholders are relatively uncommon. However, this simplicity comes with risks, as in order to grow and to sustain in competitive market, local or foreign partners are often required.

Disputes tend to arise mostly in Joint Venture companies. The majorities who are in the control often are not transparent and tend to disregard the interest of minority shareholders. It is not very uncommon in Bangladesh that a minority shareholder often files a petition under Section-233 of the Company Act, 1994 for protection of their rights, or to seek assistance of court in selling their shares to the existing management or outsider at a fair value.

The common issues which are found in such applications are as follows: (a) Majority has produced false accounts before minority and by showing fictitious expenditure consequently siphoned out

substantial amount of money from the company's account for their personal gain; (b) Majority have produced two sets of account one for minority showing loss and another for other bodies showing profit; (c) Majority has not informed the minority about EGM, AGM, Board meeting and in extreme cases has passed resolution without notice or by means of fraud.

The Honorable Court, depending on the merit of the case, often directs majority to purchase the shares of the minority, at a fair value. Consequently the joint venture comes to an end. The above practice not only discouraging joint venture but also not allowing the company to grow and compete with the global brands. Hence Government, Professional, Businessman etc have a duty in greater interest of the country not to facilitate such practices.

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## ARTICLE

### A LOOK INTO ALTERNATIVE DISPUTE RESOLUTION

Mr. Fahad Bin Qader\*

“Expenses and Expenses” that is what comes to every persons mind who is contemplating of embarking the Civil Justice System. The fact is that bringing a claim or defending a civil claim can be very expensive considering the court fee, lawyer's fee, and the list goes on. However there might be a procedure through which an escape from this ensuing expense and it is called Alternative to Dispute Resolution (ADR)

ADR is basically what its name suggests that it is an Alternative to Dispute Resolution.

Litigants will be given an option to make use of the ADR procedure rather than starting a claim in the court is presented. People are encouraged to embark ADR rather than continuing the claim in the court as the benefits of using the ADR procedure is immense. ADR saves time, the annoyance of going to court, publication of confidential information in a public court, and in more than not it saves huge amount of expense. There are different types of ADR process that one can utilize, and they are Arbitration, Mediation, Conciliation, Settlement Conference and Neutral Evaluation.

One thing that should be noted is that ADR does not always succeed however over the years there have been a lot of claims all over the world that did not reach the court rooms because ADR succeeded and the parties settled outside court.

Though the concept of ADR in Bangladesh is relatively new as the first concrete laws relating to ADR was enacted in 2001 and it was called Arbitration Act 2001, however ADR has been used in different countries for many years and it yielded a very high rate of success. As in the United States of America in 2013 the success rate of ADR was 75% which meant a total of \$35, 0777,997 was saved and more importantly a total of 2,692 months of Litigation was not required saving the precious time of the court. So, the concept of ADR is fast growing and some can argue is more efficient than the traditional route of litigation.

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The comments/remarks/opinions expressed in the articles are of the authors own. For past volumes, please visit: [www.rahmansc.com](http://www.rahmansc.com)