

Bangladesh to see 3.6% GDP Growth in FY21 and 5.1% in FY22, says World Bank

The World Bank has recently upgraded Bangladesh's GDP growth forecast for this fiscal year by 2 percentage points to 3.6%, making it the second best-performing economy in South Asia behind the Maldives. The global lender also expects Bangladesh to recover gradually from the pandemic crisis, with 5.1 percent growth in fiscal year 2021-22



In fiscal 2020-21, neighboring India's economy is forecasted to contract by 7.3 percent, while Pakistan will register a GDP growth of 1.3 percent, according to the latest version of the World Bank's flagship publication 'Global Economic Prospects', released in June. According to the report, private consumption, the main engine of growth in Bangladesh, is supported by normalizing activity, moderate inflation, and rising ready-made garment exports.

The report also said that South Asian economies are bouncing back as economic growth is set to increase by 6.8% this year, after contracting an estimated 5.4% in 2020. But the recovery remains fragile, as amid this Covid-19 pandemic, the region is expected to see tens of millions more extreme poor, those living below \$1.90 a day, by the end of this year and to have more than half of the new global poor created by Covid-19. The report emphasized the uncertainty of the economic recovery stating that all regions remain vulnerable to renewed outbreaks of Covid-19, which could feature variant strains of the virus, financial stress amplified by elevated debt levels, deeper-than-expected scarring from the pandemic, and rising social unrest, potentially triggered by rising food price.

India, the largest economy in South Asia, is expected to grow 7.5% in FY22 (April to March), a decline from the revised growth projection of 8.3% in FY21 after contracting by 7.3% in FY20. The Maldives's real GDP is projected to grow by 11.5% in FY22, after projected to expand by 17.1% in 2021. Sri Lanka and Pakistan's economy is expected to grow by 2% in FY22 from the previous year's growth projection of 3.4% and 1.3% respectively, while Nepal's GDP is forecasted to grow by 3.9% in FY22.

**CASE LAW
UPDATE****Md. Iqbal Hossain Talukder V/S
Md. Joinal Abedin Talukder
(CIVIL APPEAL NO.25 OF 2005)*****Background Facts:***

The preemptor respondents, filed Miscellaneous Case No.25 of 1994 under section 96 of the State Acquisition and Tenancy Act, 1950 claiming to be the co-sharers of the holding of the case land stating that vendor transferred the case land to the pre-emptees on 19.09.1994 without serving any notice to the pre-emptors and beyond their knowledge.

The pre-emptees are strangers in the holding, in question. It was stated that the pre-emptors having had the information of the sale deed sought to be pre-empted obtained the certified copy of the same on October 19, 1994 and thereupon had the definite knowledge about the impugned transfer to the pre-emptees. The prayer for pre-emption was resisted by the pre-emptees and argued that the pre-emptors gave consent to the sale and settled the price of the case land and assured the pre-emptees that they would not file any case for pre-emption in case of purchase by the pre-emptees and, thus, having had the assurance from the pre-emptors, the pre-emptees purchased the case land so the claim of pre-emption is barred by the principles of waiver, acquiescence and estoppel and as such the Miscellaneous Case was liable to be dismissed.

Issues before the Court:

Whether the instant application for pre-emption was barred by provisions of waiver, estoppel and acquiescence or not?

Decision of the court:

Hasan Foez Siddique J sitting in Appellate Division of Supreme Court of Bangladesh, finding substance in the appeal, allowed the appeal.

Reasoning of the Court:

The right of pre-emption is not a right to the land sold but a right to the offer of the land about to be sold. The right of pre-emption becomes enforceable only when there is a sale but the right exists antecedently to the sale. The pre-emptor has a secondary right or a remedial right to follow the land sold. The right being a preferential right to acquire the interest, which is proposed to be sold, can be defeated by all legitimate methods. If a preemptor waives or gives up his right without raising any objection to the sale in favour of third party, the Court may hold that preemptor has already given up his right. From the pleadings and evidence adduced by the pre-emptees it appears that the pre-emptors had voluntarily abandoned their known right. There is cogent evidence reflecting the pre-emptors conduct which clearly established the abandonment of such right. It was argued by the pre-emptor respondents that the right of pre-emption could accrue to the pre-emptors only after sale of the land by the vendor, and thus they could not be said to have waived it by their refusal to purchase the case land before its actual sale to the pre-emptors. The right of preemption can be waived even before sale, by express refusal to purchase the case land or by conduct reflecting clearly that the pre-emptors were not interested in its purchase. It is to be pointed out here that cases of preemption are no exception to the rule of estoppel to be found in section 115 of Evidence Act, 1872.



Legislative Updates

Bangladesh Securities and Exchange Commission (Debt Security) Rules, 2021

A gazette notification has been published on 31st March, 2021 issuing 'The Bangladesh Securities and Exchange Commission (Debt Securities) Rules-2021' will come into force with immediate effect. The rules will be applicable for issuance of debt securities, islamic shari'ah based securities including Sukuk through private offer or public issue or offer and asset backed securities (ABS) through public issue or offer as decided by the commission from time to time.

In June 2020, the Bangladesh Securities and Exchange Commission (BSEC) sought public opinion on the draft rules framed for debt securities. Taking the opinion, the BSEC approved the rules. The rules also paved the way for issuing blue bond for raising funds for investments in such a project or company or organization that is engaged in marine or ocean or sea or coast-based activities or business related to blue economy or climate or environmental impact as well as "green bond" for investments in such project or company or organization to generate a measurable and beneficial climate or environmental impact in addition to financial returns.

According to the rules, prior to filing for application, it has to be ensured that an issuer or originator, has a good track record of profitability and liquidity generating from net operating cash flows, the issue is rated by a credit rating company and has its periodical surveillance

rating done, has a valid enforceable interest over its assets and the right to create charges thereon in course of issuance of the debt securities or debt instruments, or ABS or ISBS, has appointed a trustee registered with the Commission for the issue, the issue shall not be rated below the minimum investment grade of triple 'BBB' or equivalent rating in the long term and "ST-3" or equivalent rating in the short term, financial statements are prepared and presented as per International Financial Reporting Standards (IFRS) and duly audited, issue has been approved by the board of directors or governing body of the issuer or originator, the information concerning the issue is disseminated as price sensitive information in case it is a listed company, the issuer or originator itself or any of its director, sponsor and the Chief Executive Officer is not bank defaulter as per latest CIB report, shall submit a copy of resolution of the board of directors or the governing body, shall submit a copy of detailed shari'ah pronouncement from the respective shari'ah supervisory board (SSB) preferably in Bengali version duly signed by each shari'ah scholar of the SSB for issuance of ISBS and shall submit a due diligence certificate.

Legal Framework of Inheritance in Bangladesh

In Bangladesh, the law of intestate succession is, undoubtedly, one of the most complex aspect of law which is connected to the lives of all the citizens of Bangladesh. Moreover, in Bangladesh, inheritance is governed by a person's religion. As result if the deceased person professes to Islam, in that case, his property will be distributed in accordance to the Islamic law of succession. On the other hand, if the deceased is a follower of Hinduism, then the deceased person's property will be dispersed in accordance to Hindu law.



Often people are faced with the dilemma of what to do after the demise of a family member. What is to be done? What are the steps and procedures to be followed after the demise of a family member?

Generally, after the demise of a family member, firstly, it is necessary to incur the funeral expenses and repay his entire debt, if any, from his assets. Thereafter, it is imperative to execute the Will of the deceased, if there is any, where a maximum of 1/3rd of the assets of the deceased can be distributed. Subsequent to disposal of the aforementioned, the legal heirs shall have right over the remaining assets (both immovable and moveable) of the deceased as per the succession laws of Bangladesh.

This article encapsulates a scenario where the deceased, who by religion is a Muslim, has left behind his legal heirs, namely wife, son, daughter and a special child (son). The ratio of inheritance of immovable and moveable property shall be as follows:

Relative	Share Fraction	Share Percentage
Wife	1/8	12.5%
Sons	7/12	58.33%
Daughter	7/24	29.17%

In the following pages, let us briefly look into the steps and procedures to be followed in the aforementioned case.

STEPS AND PROCEDURES TO BE FOLLOWED IN CASE OF DEMISE:

Issue:**Obtainment of the documents on behalf of the deceased****Actions to be taken**

- Death Certificate
- Burial Certificate
- Warisan Certificate
- Succession Certificate
- NID, Passport, Birth Certificate, etc. of the deceased person and the successors

Issue:**Warisan Certificate****Actions to be taken:**

In case of a sudden demise of a family member, a legal heir certificate/ warisan certificate must be obtained for transferring the assets of the deceased to his/her legal heirs. A warisan certificate is a very important document to establish the relationship between the deceased and legal heirs. Once the death certificate is obtained from the municipality/corporation, the successors can apply for this legal heir certificate to claim their right over the deceased person's properties and dues.

The Warisan Certificate can be obtained from the Local Ward Commissioner of the present/permanent address of the deceased.

Warisan certificate is required mainly for the following purpose:

- For transferring immovable properties and assets of the demised person to his successors.
- For sanctioning and processing family pension of the deceased employee.
- To receive dues such as provident fund, gratuity etc from the Government

Generally, for any property purchase or registration, the buyer should request for a warisan certificate to ascertain the ownership of the property. There can be instances, where there are several legal heirs for an ancestral property and in such cases, it is required that all legal heirs sign on the deed of conveyance giving their approval to avoid any litigations.

Who Can Apply For A Legal Heir Certificate?

The following persons are considered legal heirs and can claim a legal heir certificate under Bangladeshi law:

- Spouse of the deceased
- Children of the deceased (Son/ Daughter)
- Parents of the deceased

Issue:**Warisan Certificate (cont.)****Documents Required:**

In order to obtain a legal heir certificate, the following is the list of documents required:

- Signed application form
- Identity/Address proof of the applicant
- Death certificate of the deceased
- Date of Birth proof of all legal heirs
- A self-undertaking affidavit
- Address proof of the deceased

Tentative Timeframe:

10-12 working days

Issue:**Legal Guardianship of the Special Child****Process:**

Consent or agreement for any person with disabilities may be given on their behalf by their next friend or guardian of such person in any proceeding with the permission of court as has been indicated by section 147 of the Code of Civil Procedure, 1908. Also, further under Order 32 of Schedule-1 of the CPC sets out the special provisions for suits by or against persons of unsound mind (disabled).

In the present scenario, any of the legal heirs may act as legal guardian subsequent to obtaining legal guardianship from the court of first instance. It is imperative to note that the legal heirs have to give a NOC (No Objection Certificate) in favour of the one willing to act as legal guardian of the special child.

Steps to be followed for obtaining the legal guardianship of the special child

- For the purpose of filing the application of legal guardianship for a special child before the Family Court, at first, a certificate from a government hospital/renowned private hospital certifying the disability of the child has to be obtained.
- Thereafter, a Declaration from the District Judge has to be obtained by presenting the certificate obtained from the government hospital/ renowned private hospital certifying the disability of the special child, by filing a case.
- Thereafter, succession certificate has to be obtained.
- Subsequent to obtainment of the succession certificate, legal guardianship of the special child can be obtained. An application can be filed for Legal Guardianship before the Family Court in this regard. Please note that prior to obtainment of the succession certificate, it is still possible to obtain legal guardianship. But in such case, our main objective of legal guardianship over the share of property of the special child cannot be obtained.

Issue:**Legal Guardianship of the Special Child (cont.)**

Please note that for obtaining legal guardianship, **court does not accept any power of attorney** for conducting the case. The proposed legal guardian has to be present at all times as and when summoned by the court. Such requirement is a strict one as court is very careful about handing over legal guardianship of a disabled child.

It can take up to 2 (two) years to receive the Legal Guardianship from the court.

Issue:**Succession Certificate*****Legal Position:***

The succession certificate establishes the authenticity of the heirs and give them authority to inherit the Moveable Property, i.e. debts, securities and other assets including motor vehicle (car), shares, money from account, except immoveable properties (land/Flat).

Succession Certificate has to be obtained from the Court of Joint District Judge as per the Succession Act 1925 within whose jurisdiction the deceased (father) ordinarily resided at the time of his death, or, if at that time he had no fixed place of residence, the District Judge, within whose jurisdiction any part of the property of the deceased may be found, may be found, may grant a succession certificate.

It is imperative to mention here that, during the process of obtaining the succession certificate, the court demands for the presence of all the legal heirs when summoned for.

Tentative Timeframe:

Approximately, within 4 (Four) to 6 (Six) months the succession certificate can be obtained from the court.

Required Documents:

- i. The following listed documents to be required for filling a Succession Case, such as:
- ii. Death certificate of the deceased person.
- iii. Receipt for burial of the deceased person. (If any)
- iv. NID card's photocopy of the deceased person.
- v. NID card's photocopy of all the heirs.
- vi. PP size photo of all the heirs.
- vii. Warishan Certificate.
- viii. Documents regarding movable property of the deceased person

Issue:**Closure of the income tax file of the deceased**

According to section 92 of the Income Tax Ordinance, 1984, if a person dies, his successors shall be liable to pay any tax or other sum payable, which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased.

For the purpose of being in compliance with the laws of the land, it is suggested that subsequent to collection of the death certificate and the warisan certificate, the legal heir(s) of the deceased through a legal representative, should intimate the concerned tax department about the demise of the deceased. Thereafter, for the concerned financial year, the deceased income tax return has to be submitted under section 75 of the Income Tax Ordinance 1984 along with the necessary enclosures of warisan certificate and the death certificate. To close the file, the successors shall be required to settle all applicable taxes outstanding, if any.



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