

Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CRP No. 20 of 2023

Date of Decision: 03.10.2023

Shri Manik Dhar

Vs. Indian Overseas Bank & Anr.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Mr. S. Thapa, Adv.

For the Respondent(s) : Ms. T. Yangi B, Sr. Adv. with
Ms. I.M. Lyngdoh, Adv.

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| i) | Whether approved for reporting in
Law journals etc: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |

JUDGMENT AND ORDER (ORAL)

1. Heard Mr. S. Thapa, learned counsel for the petitioner.
Also heard Ms. T. Yangi B, learned Senior counsel assisted by Ms.
I.M. Lyngdoh, learned counsel for the respondent Bank.

2. The petitioner is before this Court by way of this application under Article 227 of the Constitution of India assailing the impugned order dated 20.09.2023, passed by the Recovery Officer, Debts Recovery Tribunal, Guwahati in O.A. No. 12 of 2007, whereby eviction notice has been issued to the petitioner and to the other occupants, in proceedings under Section 25 of Recovery of Debts and Bankruptcy Act, 1993.

3. This matter it is noted was before this Court in an earlier round of litigation being CRP No. 14 of 2016, whereby this Court by the order dated 28.07.2022 after hearing the parties at length had disposed of the same, leaving the petitioner to seek appellate remedy as provided under the statute to assail the impugned orders therein.

4. Thereafter, a review application was filed, for a slight correction, which was registered as Review Petition No. 9 of 2022, wherein instead of 'Recovery Officer' the word 'Tribunal' had been typed in. The same had also been disposed of on 10.03.2023, allowing the said correction.

5. Mr. S. Thapa, learned counsel for the petitioner while moving the instant application has submitted that, in the face of the orders of this Court, the respondent Bank without notice to the petitioner had moved an application under Section 25 of the Act, and

the Recovery Officer, Debts and Recovery Tribunal, Guwahati by the order dated 20.09.2023, had erroneously observed therein that the Review application that has been filed had been dismissed, which is incorrect. He submits that the action of the respondent Bank in resorting to attachment and issuance of orders of eviction has violated the rights of the petitioner, who is yet to take recourse to the remedy as provided by this Court in the earlier proceedings.

6. Ms. T. Yangi B, learned Senior counsel assisted by Ms. I.M. Lyngdoh, learned counsel for the respondent Bank has strongly objected to the submissions made by the counsel for the petitioner, and submits that the civil revision in question was disposed of as far back as on 28.07.2022, and even after a year had elapsed, the petitioner had not taken any steps in furtherance of his case. She also submits that the review petition, which was filed does not in any way affect the nature of the order, inasmuch as, it was only for correction of a word. It has also been submitted that the recovery certificate was issued as far back as in 2008, and the petitioner has been avoiding execution of the same, and the instant petition is also to frustrate the said proceedings. She therefore, submits that this petition has no merit, and is liable to be dismissed.

7. Having heard the learned counsels for the parties and examined the materials on record, it is seen that the impugned order dated 20.09.2023 has recorded that the aforementioned review petition has been dismissed, which is not a fact. This observation in the considered view of this Court has no bearing, inasmuch, the review application did not change the nature and character or the directions contained in the order dated 28.07.2022, passed in the main civil revision petition i.e. CRP No. 14 of 2016.

8. In this view of the matter, as it appears that due process had been resorted by the respondent Bank, no interference is called for, and the petitioner is at liberty to take appropriate alternate remedy as provided under the statute.

9. For the foregoing reasons, this revision petition stands dismissed and is accordingly disposed of.

JUDGE

Meghalaya
03.10.2023
"V. Lyndem-PS"