

GAHC010022992017



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2886/2017

M/S. TEA BROKERS GUWAHATI PVT. LTD. and ANR.
A COMPANY REGISTERED UNDER THE COMPANIES ACT, 1956 HAVING ITS
REGISTERED OFFICE AT SURAJ NAGAR PATH, SIX MILE, GUWAHATI-
781022, DIST- KAMRUPM, REPRESENTED BY ITS MANAGING DIRECTOR

2: DIPANKAR BARUAH
S/O- SHRI SUDHINDRA CHANDRA
R/O- REHABARI
GUWAHATI-

VERSUS

THE UNION OF INDIA and 2 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT OF INDIA, MINISTRY
OF FINANCE, NEW DELHI-110001

2:THE DEBTS RECOVERY TRIBUNAL
GUWAHATI
1ST FLOOR APSARA BUILDING
DR. B BARUAH ROAD
ULUBARI
GUWAHATI-781007
REPRESENTED BY THE REGISTRAR

3:THE REGISTRAR
DEBTS RECOVERY TRIBUNAL
GUWAHATI
1ST FLOOR APSARA BUILDING
DR. B BARUAH ROAD
ULUBARI
GUWAHATI-78100

For the Petitioners	: Mr. N. Deka, Advocate. Mr. M. Gogoi, Advocate.
For the Respondents	: Mr. R.K.D. Choudhury, Advocate.

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
ORDER**

11.08.2023

The instant writ petition has been filed by the Petitioners challenging the order dated 28.03.2017 passed by the learned DRT in M.A. No. 25/2017 arising out of S.A. No. 02/2006.

2. From the materials on record, it reveals that UCO Bank had initiated actions under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of The Security Interest Act, 2002 (for short 'the Act of 2002') against the Petitioners and guarantors. Under such circumstances, the Petitioners approached the Debt Recovery Tribunal, Guwahati under Section 17 of the said Act of 2002. The said application so filed was registered and numbered as SA No. 2/2006. It is further seen from the records that during the pendency of the said proceedings under Section 17 of the Act of 2002, an application was filed by the Petitioners that the attached properties be directed to be put on rent and the rent be deposited in an interest bearing no lien account.

3. It is further relevant to take note of that in the meantime, the secured assets were taken over by the Securitisation Company namely M/S JM Financial Assets Reconstruction Company (P) Ltd. and in the year 2014 the matter was compromised at Rs.5.9 crores. As per the compromise petition, the amount of rent collected was to be adjusted against the aforementioned settled amount and the Petitioner was to pay the balance. It is the case of the Petitioners that in the said compromise petition there was no mention of the amount of the rent as the parties were not aware of the exact amount. However, in the order dated 20.03.2014 passed by the DRT recording the compromise and closing the proceedings, it was recorded that the said amount was Rs.1.30 crores.

4. It is the further case of the Petitioners that at the relevant point of time i.e. on 06.09.2014 the amount was Rs.1,45,71,257/-. It is under such circumstances, an application was filed that taking into account that the entire compromise amount had been already paid, an amount of Rs.25,23,743/- was still lying with the DRT and the same be released to the Petitioners. The said application was registered and numbered as M.A. No. 25/2017. However, the said application was rejected vide the order dated 28.03.2017 for which the instant writ petition has been filed.

4. It appears from the records that notice was issued by this Court on 24.05.2017. It further reveals from the records that the

Respondent No. 3 had filed a detailed affidavit in opposition on 14.11.2022.

5. Mr. N. Deka, the learned counsel for the Petitioners submitted that this Court in view of the additional affidavit filed by the Respondent No. 3 on 27.06.2023 can dispose of the writ petition on the basis thereof.

6. In the said additional affidavit filed by the Registrar, Debt Recovery Tribunal, Guwahati Bench, it was mentioned at paragraph No. 11 that M/S JM Financial Assets Reconstruction Company (P) Ltd. had been paid Rs. 1,45,71,257/- in compliance to the order of the DRT. However, an amount of Rs. 1,75,384.72/- is still lying in the account of the M/S JM Financial Assets Reconstruction Company (P) Ltd. which was credited by the Bank after the payment of Rs. 1,45,71,257/- and the same may be released as per the direction of this Court.

7. Taking into account that the said amount belongs to the Petitioners and the DRT cannot be permitted to hold to the said amount, this Court therefore directs the Respondent No. 3, i.e. the Registrar, DRT, to forthwith and not later than 15 days from the date a certified copy of the instant order is served upon the Respondent No. 3 to disburse the amount of Rs. 1,75,384.72/- to the Petitioner. This Court further directs the Petitioner to submit the bank details

alongwith a certified copy of the instant order.

8. With the above observations and directions the petition stands disposed.

JUDGE

Comparing Assistant