

GAHC010205032023



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

Case No. : I.A.(Civil)/2805/2023

SRI PARAN JYOTI SAIKIA
S/O- SRI DHARMA SAIKIA, R/O- HOUSE NO. 7, LUTUMA, P.O-
BINOVANAGAR, P.S- FATASIL AMBARI, GUWAHATI-781018, DIST-
KAMRUPM, ASSAM

VERSUS

THE ASSAM POWER DISTRIBUTION COMPANY LTD. and 4 ORS
REPRESENTED BY THE MANAGING DIRECTOR, ASSAM POWER
DISTRIBUTION COMPANY LTD., BIJULEE BHAWANANNEX BUILDING,
PALTAN BAZAR, DIST- KAMRUP, PIN- 781001

2:THE MANAGING DIRECTOR
APDCL
BIJULEE BHAWANANNEX BUILDING
PALTAN BAZAR
DIST- KAMRUP
PIN- 781001

3:THE CHIEF GENERAL MANAGER
APDCL
BIJULEE BHAWANANNEX BUILDING
PALTAN BAZAR
DIST- KAMRUP
PIN- 781001

4:THE ALLAHABAD BANK
REPRESENTED BY ITS DEPUTY GENERAL MANAGER
ZONAL OFFICE
G S ROAD
OPP BORA SERVICE STATION
ULUBARI

GUWAHATI
PIN- 781007

5:THE DEPUTY GENERAL MANAGER
ZONAL OFFICE
ALLAHABAD BANK
GS ROAD
OPP BORA SERVICE STATION
ULUBARI
GUWAHATI
PIN- 78100

Linked Case : WP(C)/2499/2017

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P.O- BINOVANAGAR
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For the Applicant (s) : Mr. A. Sarma, Advocate.

For the Respondent (s) : Mr. A. Baruah, Advocate (R- 1 to 3)

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
ORDER

18.09.2023

The instant application has been filed by the Applicant in view of a confusion having arisen as regards the effect of the interim order dated 28.04.2017 passed in W.P.(C) No. 2499/2017 pursuant to the judgment and order dated 05.08.2023 passed in W.P.(C) No.2499/2017.

2. A perusal of the interim order dated 28.04.2017 passed in W.P.(C) No. 2499/2017 shows that this Court stayed the letter dated 25.04.2017 subject to the condition that within 1(one) week from the date of the said order, the Petitioner would communicate to the Respondent Nos. 1 to 3

intimating that the validity of the Bank Guarantee in question had been extended beyond the next date fixed in the case. The said interim order has been extended from time to time. It is also seen that this Court in its judgment and order dated 05.08.2023 had taken into account at Paragraph No. 12, the Communication issued by the Branch Head of the Punjab National Bank dated 27.09.2018, wherein it was provided that the lien has been marked against the Fixed Deposit of Rs.75,00,000/- of the Petitioner against the contingent future liability towards APDCL subject to this Court's verdict in the instant case. Further to that, it was also certified by the Branch Head of the Punjab National Bank that the Bank Guarantee towards the APDCL for the amount of Rs.75,00,000/- would continue to remain subsisting and in existence till further orders of this Court.

3. This Court vide the judgment and order dated 05.08.2023 had set aside the impugned letter dated 25.04.2017 whereby the Bank Guarantee was invoked. In view of the setting aside of the impugned letter dated 25.04.2017 which was stayed by this Court vide the interim order dated 28.04.2017, the interim order so passed on 28.04.2017 loses its existence and as such the question of extending the validity of the Bank Guarantee thereupon does not arise.

4. This Court clarifies that the said interim order dated 28.04.2017 passed in W.P.(C) No. 2499/2017 loses its existence pursuant to the judgment and order dated 05.08.2023 passed in W.P.(C) No.2499/2017 and the Petitioner/Applicant would be at liberty to approach the concerned bank for liquidation of the Fixed Deposit of the amount of Rs.75,00,000/-

in his favour.

5. With the above observations, the instant application stands disposed of.

JUDGE

Comparing Assistant