

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 193 of 2024

Date of order: 03.06.2024

Arcolia Kharmujai

...Petitioner

- Versus -

1. Authorized Officer,
Meghalaya Rural Bank, KJP Conference Centre,
Barik Point, Lachumiere, Shillong 793001, Meghalaya.
2. Chief Manager, Meghalaya Rural Bank,
KJP Conference Centre, Barik Point,
Lachumiere, Shillong 793001, Meghalaya.
3. Wanlamphang Kharmujai,
S/o (L) Nangaibok Mawroh, Permanent Resident of NNB
Dhankheti, Malki, Shillong, P.O. GPO & P.S. Laitumkhrah,
East Khasi Hills – 793001, Meghalaya.

...Respondents

Coram:

Hon'ble Mr. Justice S. Vaidyanathan, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner : Mr. A. Sahu, Adv.

For the Respondents : None

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

J U D G M E N T :: O R A L
(Made by Hon'ble, the Chief Justice)

The present writ petition has been preferred against the judgement and order dated 23.04.2024 passed by the Debt Recovery Tribunal, Guwahati in S.A. No. 15 of 2024.

2. The main contention of the petitioner is that when the statutory authority has not acted in accordance with the provisions of the enactment in question and that there is a violation of the principles of natural justice, this Court is empowered to entertain the writ petition de hors the alternate remedy. Learned counsel for the petitioner also relied on paragraph 29 of the judgment in the case of **PHR Invent Educational Society v. UCO Bank and others** reported in **(2024) 4 S.C.R. 541 : 2024 INSC 297**, which is extracted herein below:

“29. It could thus clearly be seen that the Court has carved out certain exceptions when a petition under Article 226 of the Constitution could be entertained in spite of availability of an alternative remedy. Some of them are thus:

- (i) where the statutory authority has not acted in accordance with the provisions of the enactment in question;
- (ii) it has acted in defiance of the fundamental principles of judicial procedure;
- (iii) it has resorted to invoke the provisions which are repealed; and
- (iv) when an order has been passed in total violation of the principles of natural justice.”

3. While dealing with those issues, by referring to *Satyawati Tondon's* case reported in (2010) 8 SCC 110, in paragraph 33 of the decision reported in (2024) 4 S.C.R. 541, which is extracted below has categorically held that the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise the jurisdiction under Article 226 of the Constitution of India which is impermissible and that in future, the High Courts must exercise with greater caution in dealing with those issues.

“33. While dismissing the writ petition, we will have to remind the High Courts of the following words of this Court in the case of *Satyawati Tondon* (Supra) since we have come across various matters wherein the High Courts have been entertaining petitions arising out of the DRT Act and the SARFAESI Act in spite of availability of an effective alternative remedy:

“55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection.”

4. Hence, we are of the view that in the light of paragraph No. 33 of the judgement extracted (supra), we dismiss the writ petition and permit the petitioner to file an appeal before the Appellate Tribunal. The appeal should be filed within a period of 30 days from the date of

receipt of this order. In case more time is available in preferring the appeal under the statute, the same is not curtailed by the order of this Court.

(W. Diengdoh)
Judge

(S. Vaidyanathan)
Chief Justice

Meghalaya
03.06.2024
"Sylvana PS"