

GAHC010005722024



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

Case No. : WP(C)/110/2024

BIKRAM YADAV
S/O SHANKAR GOALA R/O VILL. BARIKNAGAR PART II P.O. SILCOORIE
DIST. CACHAR ASSAM PIN 788010

VERSUS

THE NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LIMITED
AND 4 ORS (A)
G S ROAD DISPUR GUWAHATI 6

2:THE GENERAL MANAGER
THE NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LTD G S
ROAD DISPUR GUWAHATI 6

3:THE ASSISTANT GENERAL MANAGER CUM AUTHORISED OFFICER
THE NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LTD G S
ROAD DISPUR GUWAHATI 6

4:THE BRANCH MANAGER
NEDFI
SILCHAR BRANCH RANGIRKHARI P.O. SILCHAR DIST. CACHAR ASSAM

5:ARUN DEB NATH
R/O LINK ROAD SILCHAR P.O. AND P.S. SILCHAR DIST. CACHAR ASSAM

Advocate for the Petitioner : MR. R MAJUMDAR

Advocate for the Respondent :

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
HON'BLE MRS. JUSTICE MITALI THAKURIA

ORDER

19.01.2024

(MR Pathak, J)

Earlier on 12.01.2024, we passed an order directing the petitioner to deposit an amount of Rs. 20,00,000/- (Rupees twenty lakhs) only with the respondent/NEDFI on or before 17.01.2024 specifically observing “without entering into the merit of the case”. Mr. Majumdar, learned counsel appearing for the petitioner, placed before the Court that pursuant to the said order dated 12.01.2024, the petitioner, by Demand Draft No. 985507, deposited an amount of Rs. 20,00,000/- (Rupees twenty lakhs) only with the respondent/NEDFI, Silchar Branch on 17.01.2024 and obtained a written receipt in that regard vide Receipt No. 3289, dated 17.01.2024; regarding which the learned counsel for the respondent/NEDFI, Mr. G. Das, also consented.

2) It is placed before the Court by Mr. G. Das, learned Standing Counsel for the respondent/NEDFI, that pursuant to the Auction Sale Notice under the SARFAESI Act, 2002 with regard to the property of the petitioner, possession of the same was taken away back on 21.03.2022 and its auction took place on 05.06.2022 and in that regard the Sale Certificate of the said property measuring 1 Katha 8 Chatak and 8 Katha and 8 Chatak covered by Dag Nos. 370 and 371 of 2nd R.S. Patta No. 87-1/3, measuring total 10 Kathas of 2nd R.S. Pargona - Chatla Hawar, under Silcoorie Grant under Silchar Revenue Circle in the District of Silchar along with civil structure standing therein was issued on 19.06.2023 in favour of the auction purchaser Sri Arun Nath.

3) We found that the petitioner has an alternative remedy by preferring an appeal before the concerned appellate forum regarding the redressal of his grievances, particularly, with

regard to the E-Auction Sale Notice dated 05.05.2023 issued under the SARFAESI Act, 2002 pertaining to the mortgaged property of the petitioner as well as the order dated 13.12.2023, passed by the learned Presiding Officer, Debt Recovery Tribunal, Guwahati, rejecting the SARFAESI Application being SA No. 81/2023 that was filed by the petitioner.

4) For the reasons above, since there is statutory, efficacious remedy available by way of appeal prescribed under the SARFAESI Act, 2002 to the petitioner, we are not inclined to entertain this writ petition. Accordingly, this writ petition filed by the petitioner is dismissed being not maintainable.

5) Regarding taking back of Rs. 20,00,000/- (Rupees twenty lakhs) only, deposited by the petitioner on 17.01.2024 with the respondent/NEDFI, noted above, the petitioner may raise the issue before the concerned appellate forum as we passed the said order without entering into the merit of the case.

JUDGE

JUDGE

Comparing Assistant