

GAHC010012802024



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

Case No. : WP(C)/329/2024

M/S BARAK POWER LINE AND 2 ORS
REPRESENTED BY MRS. SUJATA NATH,
BRINDABAN SARANI, TARAPUR
NEAR 2ND RLY GATE,
P.O.- SILCHAR, ASSAM- 788003.

2: SUJATA NATH
W/O- SHRI PINAK PANI NATH

R/O- BRINDABAN SARANI
TARAPUR

NEAR 2ND RLY GATE

P.O.- SILCHAR
ASSAM- 788003.

3: PINAK PANI NATH
S/O LATE PRAHLAD CH. NATH

R/O- BRINDABAN SARANI
TARAPUR

NEAR 2ND RLY GATE

P.O.- SILCHAR
ASSAM- 788003

VERSUS

THE RECOVERY OFFICER, DRT AND 2 ORS
DEBT RECOVERY TRIBUNAL, GUWAHATI,
SUWARNA BHAWAN, HOUSE NO. 12,
NEAR TOWN PATH, NEAR HANUMAN MANDIR,

G.S. ROAD, ULUBARI, GUWAHATI- 781007,
ASSAM.

2:THE HDFC BANK LTD.
HDFC HOUSE
SENAPATI BAPAT MARG

LOWER PAREL(W)
MUMBAI- 400013.

3:THE MANAGER
HDFC BANK LTD.
CLUB ROAD
SILCHAR

DISTRICT- CACHAR
ASSAM- 788001

Advocate for the Petitioner : MR R DHAR

Advocate for the Respondent : SC, HDFC BANK

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 24-01-2024

Head Mr. R. Dhar, learned counsel for the petitioners and Mr. M. Sharma, learned counsel for the respondent HDFC Bank Ltd. for the respondent nos. 2 & 3.

2. The petitioners have instituted the instant writ petition under Article 226 of the Constitution of India to assail a Demand Notice dated 19.12.2023 issued by the Recovery Officer, Debts Recovery Tribunal whereby the petitioners have been directed to pay a sum of Rs. 2,89,47,891.18/- within 15 [fifteen] days from the date of receipt of the Notice, failing which the recovery would be made in accordance with the Recovery of Debts due to Banks and Financial Institution

Act, 1993 and Rules framed thereunder. From a perusal of the Notice, it is noticed that the said Notice has been issued in connection with recovery proceedings registered as RC/167/2023 [HDFC Bank vs. M/s Barak Powerline]. It is further noticed that pursuant to an Order passed by the Debts Recovery Tribunal, Guwahati in OA/63/2019, a Recovery Certificate was issued for an amount of Rs. 1,51,45,208.53/- along with *pendent lite* and future interest @ 13.00% compound interest monthly w.e.f. 01.01.2019 till realization and costs of Rs. 1,50,000/- against the petitioners [Jointly and severally/Fully/Limited]. The Recovery Certificate contains the calculation as under :

1. Amount due as per the Recovery Certificate	Rs. 1,51,45,208.53
2. Interest from 01.01.2019 to 12.12.2023 @ Rs. 13%	Rs. 1,36,52,682.62
3. Costs	Rs. 1,50,000.00
TOTAL	Rs. 2,89,47,891.18

3. The only contention raised on behalf of the petitioners is to the effect that by the said Notice, the Recovery Officer has directed the petitioners to pay the above sum only within 15 [fifteen] days for the date of receipt of the Notice.

4. Mr. Dhar, learned counsel for the petitioners has submitted that the provisions of the Recovery of Debts due to Banks and Financial Institution Act, 1993 envisages a period of 30 [thirty] days for deposit of such decretal amount. To buttress his submission, he has referred to Section 30 of the Recovery of Debts due to Banks and Financial Institution Act, 1993.

5. Mr. Sharma, learned counsel appearing for the respondent HDFC Bank Ltd. has submitted that from the Notice it clearly transpires that the petitioners have been asked to appear before the Recovery Officer on 22.04.2024 for further

proceedings.

6. Section 30 of the Recovery of Debts due to Banks and Financial Institution Act, 1993 reads as under :

30. Appeal against the order of Recovery Officer.—

(1) Notwithstanding anything contained in section 29, any person aggrieved by an order of the Recovery Officer made under this Act may, within thirty days from the date on which a copy of the order is issued to him, prefer an appeal to the Tribunal.

(2) On receipt of an appeal under sub-section (1), the Tribunal may, after giving an opportunity to the appellant to be heard, and after making such inquiry as it deems fit, confirm, modify or set aside the order made by the Recovery Officer in exercise of his powers under sections 25 to 28 (both inclusive).

7. From a bare perusal of the provisions contained in Section 30, it appears that Section 30 which is with a non-obstante clause, any person aggrieved by an order of Recovery Officer made under the Recovery of Debts due to Banks and Financial Institution Act, 1993, is appealable and such appeal can be filed within 30 [thirty] days from the date on which a copy of the order is issued to him before the Tribunal.

8. The learned counsel for the petitioner has not been able to show any statutory provisions whereby the Recovery Officer has been mandated to give a period of thirty days and has been restricted to give 15 days' time period in a Notice directing the judgment-debtor to deposit the decretal amount in recovery proceedings initiated after the final order passed in the original application. As it transpires from Section 30 of the Recovery of Debts due to Banks and Financial Institution Act, 1993 that an order passed by a Recovery Officer is also appealable, the petitioners have a statutory remedy of appeal.

9. In the above view of the matter, this Court does not find any merit to entertain the writ petition and accordingly, the same is not entertained.

JUDGE

Comparing Assistant