

GAHC010013402024



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

Case No. : WP(C)/451/2024

THE BANK OF BARODA AND ANR
HAVING ITS H.O. AT BARODA BHAVAN, RC DUTT ROAD, ALKAPURI,
BARODA-390007, GUJARAT, REPRESENTED BY CHAIRMAN

2: THE AUTHORISED OFFICER
BANK OF BARODA
SILPUKHURI BRANCH
SILPUKHURI
GUWAHATI
DIST-KAMRUP (M)
GUWAHATI
ASSAM
78100

VERSUS

STATE OF ASSAM AND 3 ORS
REPRESENTED BY SECRETARY, DEPARTMENT OF HOME, GOVERNMENT
OF ASSAM

2:DEPUTY COMMISSIONER
KAMRUP (M)
OFFICE OF THE DEPUTY COMMISSIONER
KAMRUP M)
GUWAHATI
ASSAM

3:M/S A AND B SERVICES
REPRESENTED BY UTKAL JYOTI HAZARIKA
S/O ASHOK CHANDRA HAZARIKA
R/O HOUSE NO. 45
KARBI NAMGHAR PATH
NEAR JAPORIGOG
SUB POST OFFICE

DIST- KAMRUP (M)
PIN-781005

4:ASHOK CHANDRA HAZARIKA
S/O LATE KABI CHANDRA HAZARIKA
R/O HOUSE NO. 45
KARBI NAMGHAR PATH
NEAR JAPORIGOG
SUB POST OFFICE
DIST- KAMRUP (M)
PIN-78100

Advocate for the Petitioner : MR. B SHARMA

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE THE CHIEF JUSTICE (ACTING) MR. LANUSUNGKUM JAMIR
HON'BLE MR. JUSTICE KARDAK ETE

02.02.2024.

(L.S. Jamir, CJ (Acting))

Heard Mr. B. Sharma, learned counsel for the petitioners. Also heard Mr. N. Das, learned Government Advocate, Assam for the respondent Nos.1 & 2.

(2) The petitioner No.1 before this Court is a Public Sector undertaking Bank i.e. Bank of Baroda.

(3) The respondent No.3 availed working capital limit of Rs.25 lacs from the erstwhile Vijaya Bank, now the Bank of Baroda and the respondent No.4 stood as guarantor to the said loan. As the respondent Nos.3 & 4 failed to repay the loan amount as per the terms and conditions of the sanction, the Loan Accounts of the respondent Nos.3 & 4 were declared as Non-Performing Assets (NPA). Thereafter the petitioner Bank initiated a proceeding under the Securitisation

and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002), to recover its lawful dues.

(4) The petitioner Bank accordingly approached the concerned District Magistrate for passing necessary directions under Section 14 of the SARFAESI Act, 2002, for taking possession of secured assets and documents relating to them.

(5) Accordingly, the Additional District Magistrate, Kamrup (M) District at Guwahati passed an order on 28.11.2023, deputing one Executive Magistrate, Kamrup (Metro) to oversee the law and order situation only, during taking over the possession of the secured assets of the respondent Nos.3 & 4, by the Bank as per the provision of the SARFAESI Act, 2002.

(6) Accordingly, on 28.12.2023 when the petitioner Bank tried to take possession of the secured assets of the respondent Nos.3 & 4, the deputed Executive Magistrate, Kamrup (Metro) failed to cooperate with the petitioner Bank on the ground that the Executive Magistrate was deputed only to oversee the law and order situation.

(7) Being aggrieved, the petitioner Bank through the Branch Manager, made a representation on 04.01.2024, before the District Magistrate, Kamrup (Metro) at Guwahati, to take appropriate steps in the matter. However, that representation is yet to be considered and disposed of by the District Magistrate, Kamrup (Metro) at Guwahati till date.

(8) In view of the discussions made herein, this Writ Petition is disposed of directing the District Magistrate, Kamrup (Metro) at Guwahati to dispose of the representation filed by the Petitioner Bank on 04.01.2024, within a period of two (2) weeks from the date of receipt of a copy of this order, in accordance with

the law.

(9) With the above observation and directions, this Writ Petition stands allowed.

JUDGE

CHIEF JUSTICE (ACTING)

Comparing Assistant