

GAHC010030862023



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

Case No. : CRP(IO)/41/2023

M/S GABHARU ENTERPRISE AND 2 ORS
A PROPRIETORSHIP FIRM HALESWAR GOROIMARI P.O. HALESWAR DIST.
SONITPUR ASSAM 784104

2: SIMANTA SAIKIA
PROPRIETOR OF M/S GABHARU ENTERPRISE HALESWAR GOROIMARI
P.O. HALESWAR DIST SONITPUR ASSAM 784104

3: MEEN SAIKIA
W/O SIMANTA SAIKIA HALESWAR GOROIMARI P.O. HALESWAR DIST
SONITPUR ASSAM 78410

VERSUS

THE RECOVERY OFFICER AND 2 ORS
DEBTS RECOVERY TRIBUNAL (DRT) GUWAHATI SUWARNA BHAWAN
HOUSE NO. 12 NEW TOWN PATH NEAR HANUMAN MANDIR G.S. ROAD
ULUBARI GUWAHATI 781001 ASSAM

2:BANK OF BARODA
REP. BY ITS BRANCH MANAGER MB ROAD NEAR IDD GAAH FIELD
TEZPUR DIST. SONITPUR ASSAM 784001

3:THE REGIONAL MANAGER
REGIONAL OFFICE BANK OF BORODA CRYSTAL ENCLAVE SEUNI ALI
BORPOOL A T ROAD P.O. AND DIST. JORHAT ASSAM 78500

For the Petitioner(s)	: Mr. D. Das, Sr. Advocate
	: Ms. S. Sharma, Advocate

For the Respondent(s)	: Mr. S. Dutta, Sr. Advocate
	: Ms. P. Bhagat, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 24.04.2024

Heard Mr. D. Das, the learned Senior counsel assisted by Ms. S. Sharma, the learned counsel appearing on behalf of the Petitioners and Mr. S. Dutta, the learned Senior counsel assisted by Ms. P. Bhagat, the learned counsel appearing on behalf of the Respondent Nos. 2 and 3.

2. The instant proceedings have been initiated on the ground that two simultaneous proceedings were going on in respect to the same property. One was the proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "SARFAESI Act") whereby the property was attached by the Respondent Nos. 2 and 3 by exercising the powers under the said enactment and the other was a recovery proceedings before the Recovery Officer of the DRT.

3. This Court vide a detailed order dated 04.03.2024 enquired as to whether the Respondent No.2 further wishes to proceed with the proceedings under the SARFAESI Act or before the Recovery Officer of the DRT. Pursuant thereto, affidavits have been filed by the Respondent No.2 thereby electing to only proceed before the Recovery Officer of the DRT.

4. This Court has also taken note of the affidavit filed by the Respondent No.2 on 27.03.2024 wherein a document dated 20.03.2024 has been enclosed stating inter alia that the Respondent No.2 has withdrawn the proceedings under the SARFAESI Act and requested co-operation of the petitioners in facilitating the return of the physical possession which was undertaken as part of the SARFAESI action.

5. Taking into account the above development more particularly the communication dated 20.03.2024, this Court is of the opinion that there is no hindrance on the part of the Recovery Officer of the DRT to proceed with the recovery proceedings in accordance with law.
6. Accordingly, in view of the said development, nothing further survives to be adjudicated in the instant proceedings for which the same stands closed.
7. Interim order passed on 27.02.2023 stands vacated.

JUDGE

Comparing Assistant