

GAHC010120892024



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

Case No. : WP(C)/3159/2024

KAMALA KANTA SINGHA AND ANR
S/O- LATE NETRO SINGHA,
RESIDENT OF VILLAGE -DURGANAGAR PART-III,
P.O.- GOSSAIPUR,
DISTRICT- CACHAR, ASSAM, PIN - 788030.

2: KANCHAN BALA SINGHA
D/O- KAMALA KANTA SINGHA
RESIDENT OF VILLAGE- DURGANAGAR PART-III
P.O.- GOSSAIPUR
DISTRICT- CACHAR
ASSAM
PIN - 788030

VERSUS

PUNJAB NATIONAL BANK AND 6 ORS
REPRESENTED BY ITS MANAGING DIRECTOR AND CHIEF EXECUTIVE
OFFICER,
HEAD OFFICE- UNDER HILL ROAD,
CIVIL LINES, NEW DELHI- 110054.

2:THE CHIEF REGIONAL MANAGER
PUNJAB NATIONAL BANK
CACHAR REGIONAL BRANCH
SILCHAR CIRCLE SASTRA OFFICE
CENTRAL ROAD
SILCHAR
DISTRICT- CACHAR
ASSAM
PIN- 788001.

3:THE BRANCH MANAGER
PUNJAB NATIONAL BANK

SILCHAR BRANCH
CENTRAL ROAD
SILCHAR
DISTRICT- CACHAR
ASSAM
PIN- 788001.

4:NUMAN CHOUDHURY
S/O- GIAS UDDIN CHOUDHURY
R/O- VILLAGE- DURGANAGAR PART-IV
P.O. AND P.S.- UDHARBOND
DISTRICT- CACHAR
ASSAM
PIN- 788030.

5:KOHIRUL BARBHUIYA
R/O- VILLAGE- CHANRAUDAN
MADHURBOND
P.O. AND P.S.- CACHAR
ASSAM
PIN- 788001.

6:IQBAL AHMED LASKAR
R/O- VILLAGE AND P.O.- GOSSAIPUR
DISTRICT- CACHAR
ASSAM
PIN- 788030.

7:AHMED CHOUDHURY
R/O- VILLAGE AND P.O.- GOSSAIPUR
DISTRICT- CACHAR
ASSAM
PIN- 788030

Advocate for the Petitioner : MR. R MAJUMDAR

Advocate for the Respondent : SC, PNB

BEFORE
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE KARDAK ETE

ORDER

Date : 21-06-2024

(Vijay Bishnoi, CJ)

The petitioners took a loan of Rs.24,00,000/- (Rupees twenty four lakh) from the respondent Bank. However, when the petitioners have failed to pay the outstanding dues, as per the loan agreement, SARFAESI proceedings were initiated against them by the respondent Bank.

It is informed that the petitioners have filed the WP(C) No.9413/2019, before this Court with the prayer for setting aside the entire proceedings against them under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'SARFAESI Act').

But the said Writ Petition came to be dismissed by this Court on 20.07.2022, on the ground of maintainability, in view of the availability of the alternate remedy to the petitioners. Now the petitioners have approached this Court with the prayer to direct the respondent Bank to consider the one time full and final settlement of their loan account by waiving the interest.

The Hon'ble Supreme Court in Civil Appeal No.7411/2021 (the Bijnor Urban Cooperative Bank Limited vs. Meenal Agarwal), decided on 15.12.2021, has held that no writ of mandamus can be issued by the High Court in exercise of power under Article 226 of the Constitution of India, directing a financial institution/Bank to positively grant the benefit of OTS to a borrower.

In view of above decision of the Hon'ble Supreme Court, no relief can be granted to the petitioners and hence, this Writ Petition is dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant