

GAHC010151832024



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

Case No. : WP(C)/3839/2024

1: SANKAR SAHA AND ANR
S/O LATE BIRENDRA CHANDRA SAHA. HOUSE NO .9A, BYE LANE-7A,
SREE NAGAR, CHRISTIAN BASTI, GUWAHATI, KAMRUP(M), ASSAM-
781006

2: SMT. AMITA SAHA
W/O- SRI SANKAR SAHA .HOUSE NO .9A BYE LANE-7A
SREE NAGAR CHRISTIAN BASTI GUWAHATI KAMRUP(M) ASSAM-78100

VERSUS

1: THE STATE OF ASSAM AND 5 ORS REPRESENTED BY THE CHIEF
SECRETARY TO THE GOVT. OF ASSAM, DISPUR, GUWAHATI

2:LIC HOUSING FINANCE LTD. REPRESENTED BY ITS AUTHORIZED
OFFICER HAVING ITS GUWAHATI OFFICE AT 2ND FLOOR JEEVAN NIVESH
BUILDING LAKHTOKIA POINT PANBAZAR GUWAHATI KAMRUP (M)
ASSAM - 781001

3:THE DISTRICT COMMISSIONER
KAMRUP(M) ASSAM.

4:THE COMMISSIONER OF POLICE
GUWAHATI ASSAM.

5:THE SUB- DIVISIONAL MAGISTRATE
KAMRUP(M) ASSAM

6:THE CIRCLE OFFICER,
DISPUR REVENUE CIRCLE KAMRUP (M), ASSAM

For the Petitioner(s) : Mr. M. Choudhury, Advocate.

For the Respondent(s) : None.

- B E F O R E -
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE SUMAN SHYAM

31.07.2024

(Vijay Bishnoi, CJ)

This writ petition is filed by the petitioners challenging the order dated 11.07.2024 passed by the Sub-Divisional Magistrate, Kamrup Metropolitan District, whereby Executive Magistrate, Kamrup Metro is deputed to oversee the law and order during taking over the possession of the secured assets by the Bank authorities as per the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter to be referred as "SARFAESI Act").

It appears that the respondent Bank has initiated proceedings for realization of the loan amount lent by it to the petitioners and in the said process, the possession of the property of the petitioners mortgaged with the Bank is sought to be taken with the aid of the administration.

Having heard the learned counsel for the petitioners and after going through the material available on record, we are of the view that the if the petitioners are aggrieved by the action initiated by the respondent Bank authorities under the provisions of the SARFAESI Act, the petitioners have an alternate and efficacious remedy to approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act. Hence, we do not find any case for interference and, therefore, the writ petition is hereby dismissed.

At this stage, the learned counsel for the petitioners has submitted that if 1(one) month's time is granted to the petitioners, they will pay the entire outstanding amount to the respondent Bank.

Taking into consideration the submission made by the learned counsel for the petitioners, we are of the view that the petitioners shall approach the

Bank authorities with this proposal within a period of 3(three) days and it is expected that if any such proposal is made by the petitioners, the Bank authorities shall consider the same objectively.

JUDGE

CHIEF JUSTICE

Mukut

Comparing Assistant