

GAHC010152062024



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

Case No. : WP(C)/3833/2024

UDDIT PATAR AND ANR
S/O- MRINAL PATAR,
R/O- VILLAGE NO. 1 BORPAYAK,
P.O.- NELLIE, P.S.- JAGIROAD,
DISTRICT- MORIGAON, ASSAM,
PIN- 782104.

2: MRINAL PATAR
S/O- LT. SRIKANTH PATAR
R/O- VILLAGE NO. 1 BORPAYAK
P.O.- NELLIE
P.S.- JAGIROAD
DISTRICT- MORIGAON
ASSAM
PIN- 782104

VERSUS

ICICI BANK LTD AND 4 ORS
REPRESENTED BY ITS MANAGING DIRECTOR AND C.E.O.,
ICICI BANK TOWERS, BANDRA-KURLA COMPLEX,
MUMBAI 400051.

2:THE AUTHORIZED OFFICER
ICICI BANK LTD.
228A
A.J.C. BOSE ROAD
LANDMARK BUILDING 4
KOLKATA- 700020
WEST BENGAL.

3:THE BRANCH MANAGER
ICICI BANK
JAGIROAD BRANCH

JAGIROAD
DISTRICT- MORIGAON
ASSAM
PIN- 782410.

4:THE DISTRICT COMMISSIONER
MORIGAON
ASSAM
PIN- 782105.

5:THE CIRCLE OFFICER
MORIGAON REVENUE CIRCLE
MORIGAON

Advocate for the Petitioner : MD. M H CHOUDHURY, TANZIM L. CHOUDHURY,R.
BARUAH,MR. S N AHMED,MR. P CHAKRABORTY,MR MONZUR K CHOUDHURY

Advocate for the Respondent : GA, ASSAM,

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 02/08/2024
Vijay Bishnoi, CJ

Heard Mr. M.H. Choudhury, learned senior counsel assisted by Mr.P. Chakraborty, learned counsel for the writ petitioners. We have also heard Mr. Mukesh Sarma, learned counsel appearing for the respondent nos. 1, 2 & 3 and Mr. N. Das, learned Government Advocate, Assam, appearing for the respondent nos. 4 & 5.

This writ petition is filed by the petitioners challenging the order dated 09/07/2024 passed by the District Commissioner, Morigaon, whereby, it has directed the Circle Officer, Morigaon Revenue Circle to maintain law and order duty and identification of the schedule land in relation to which the respondent bank has initiated proceedings under the *Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short SARFAESI Act)*. The petitioners have also prayed that the respondent bank be directed to grant the petitioners one year further time to repay the loan amount.

The learned counsel for the petitioners has submitted that the petitioners are not denying their

liability to repay the loan but on account of some unavoidable circumstances, the loan account of the petitioners became NPA and thereafter, the bank has initiated proceedings against them under the SARFAESI Act. It is contended that the petitioner no. 1 is a young entrepreneur having bright future and at this stage, if the mortgaged property is allowed to be put to auction, the petitioners would suffer heavy losses.

Learned counsel appearing for the respondent bank has opposed the prayer made by the learned counsel for the petitioners.

Having heard the learned counsel for the parties and after going through the materials available on record, we are of the view that the respondent bank has acted within its right for recovery of the loan advanced to the petitioners under the SARFAESI Act. The petitioners have alternative efficacious remedy to approach the DRT under the provisions of the SARFEASI Act, if they are aggrieved by the proceedings initiated by the bank.

In so far as the question of granting one year further time to the petitioners for repaying the loan is concerned, it is for the Bank authorities to consider the said prayer of the petitioners.

In such circumstances, we don't find any case for interference. However, we grant liberty to the petitioners to approach the Bank authorities with a prayer for granting them one year further time to repay the loan.

It is expected that if any such representation is filed on behalf of the petitioners, the bank shall consider the same objectively within a period of 1 (one) week from the date of filing of such representation.

With the above observations, the writ petition stands disposed of.

JUDGE

CHIEF JUSTICE

sukhamay

Comparing Assistant