

GAHC010159702024



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

Case No. : WP(C)/4032/2024

MD. MAINUL HAQUE
S/O MATIUR RAHMAN PROPRIETOR OF M/S CHOICE SHOE STORE R/O
VILL KHATABARI NALBARI TOWN WARD NO. 1
P.O. AND P.S. NALBARI
PIN 781335
DIST. NALBARI ASSAM

VERSUS

THE UNION OF INDIA AND 3 ORS
REP BY THE SECRETARY TO THE GOVT OF INDIA
MINISTRY OF FINANCE NEW DELHI

2:INDIAN BANK
REP BY ITS CHAIRMAN HEAD OFFICE
AT AVVAI SHANMUGAM SALAI ROYAPETTAH
CHENNAI TAMILNDU 600014

3:THE ZONAL MANAGER
INDIAN BANK ALLA REGIOANL OFFICE
ULUBARI GUWAHATI 781007

4:THE BRANCH MANAGER
INDIAN BANK (ALLA) NALBARI
BALITARA BRANCH P.O AND PS NALBARI
DIST. NALBARI ASSAM PIN 78133

Advocate for the Petitioner : MR. S NATH, MS. M BAISHYA,R SAHA

Advocate for the Respondent : DY.S.G.I., SC, INDIAN BANK

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 12.08.2024

Heard Mr. S. Nath, learned counsel for the petitioner, who submits that the demand notice dated 08.03.2024 issued under Section 13(2) of SARFAESI Act should be set aside and the petitioner's representation dated 24.07.2024 should be decided by the respondent authorities.

2. On the other hand, Mr. M. Sarma, learned counsel for the respondent Nos. 2, 3 & 4 submits that as there is an alternative remedy available under Section 13(2) of the SARFAESI Act, the petitioner should avail of the same. He further submits that the petitioner did not submit any representation against the demand notice dated 08.03.2024 and has instead made an application dated 24.07.2024, for making a settlement of the loan amount, without proposing any amount.

3. I have heard the learned counsels for the parties.

4. In view of the decision of the Supreme Court in the case of ***PHR Invent Education Society Vs. UCO Bank and others***, reported in ***2024 SCC Online SC 258***, this Court is not inclined to consider the case of the petitioner, as an alternative remedy is available. In the above case, the Supreme Court has relied upon another of its' decision in the case of ***United Bank of India vs. Satyawati Tondon and others***, reported in ***(2010) 8 SCC 118***, wherein it

has been held at para 55 as follows:-

*“**55.** It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under [Article 226](#) for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection.”*

5. In view of the above, the writ petition stands dismissed, with liberty being given to the petitioner to avail of the alternative statutory remedy available.

JUDGE

Comparing Assistant