

GAHC010181292022



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

Case No. : WP(C)/6036/2022

SAZZADUL HOQUE
S/O- NAZRUL ISLAM,
R/O- VILLAGE GARCHINGA, BIHIAGAON,
P.O- PANCHMILE, TEZPUR,
DIST- SONITPUR, ASSAM, PIN-784025

VERSUS

UNION BANK OF INDIA AND 2 ORS.
HAVING ITS HEADQUARTER AT UNION BANK BHAVAN 239, VIDHAN
BHAVAN MARG, NARIMAN POINT, MUMBAI, MAHARASHTRA, INDIA
REPRESENTED BY ITS MANAGING DIRECTOR

2:UNION BANK OF INDIA
TEZPUR BRANCH
TEZPUR MAIN ROAD
SOHUM SHOPPING MALL
DIST- SONITPUR ASSAM
PIN-784001

REP. BY ITS BRANCH MANAGER

3:THE CHIEF MANAGER AND AUTHORISED OFFICER
TEZPUR BRANCH
TEZPUR MAIN ROAD
SOHUM SHOPPING MALL
DIST- SONITPUR ASSAM
PIN-78400

Advocate for the Petitioner : MR. P MAHANTA, MS. P SAHARIA

Advocate for the Respondent : MR S DUTTA,

BEFORE

THE HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

Order

31.07.2024

1. Heard Mr. P Mahanta, learned counsel for the petitioner. Also heard Mr. S Dutta, learned standing counsel for the Bank.
2. This writ petition was entertained even though the petitioner is having remedy under Section 17 of the SARFAESI Act, only on the basis of statement of the learned counsel for the petitioner that the petitioner is willing to go for one time settlement by making the Bank a reasonable offer.
3. The learned counsel for the Bank submits that neither such proposal has been given nor any payment has been made till date. Therefore, such writ petition shall not be entertained and the petitioner shall be relegated to the appropriate forum under Section 17 of the SARFAESI Act.
4. Mr. P Mahanta, learned counsel for the petitioner, on instruction, submits that the petitioner is in a very precarious financial condition and therefore he has not been able to make any payment and though made an offer of one time settlement, the Bank has not accepted the same. However, such statement has been refuted by the learned counsel for the Bank.
5. The Hon'ble Apex court time and again ruled that a writ petition under Article 226 of the Constitution of India should not be entertained if an alternative statutory remedy is available under SARFAESI Act, 2002 and when a matter relates to securitization and re-construction of financial assets under the SARFAESI Act, this court should not exercise the power of judicial review except in extra ordinary cases inasmuch as the petitioner shall have an efficacious remedy to deal with all the grievances that he has raised in this writ petition by a competent authority created

under the Act.

6. In view of the aforesaid, the present writ petition stands dismissed with a liberty to the petitioner to approach appropriate authority, if so advised or to settle the dispute outside the court. In the event, such proposal is given, the Bank may consider the same as per extent norms. The period spent in this court, may be considered while condoning the delay by the competent Tribunal if such application is filed.

JUDGE

Comparing Assistant