

GAHC010205462023



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

Case No. : WP(C)/5314/2023

KRISHNA SHARMA,
S/O- LATE ANANDA SHARMA,
R/O- BHANDAR GALLI, TARAPUR,
SILCHAR TOWN, P.O.- TARAPUR,
P.S.- SILCHAR, DIST.- CACHAR,
ASSAM, PIN- 788003.

VERSUS

1. THE PUNJAB NATIONAL BANK AND 4 ORS
REGISTERED OFFICE AT PLOT NO. 4, SECTOR 10, DWARKA, NEW DELHI-
110075.

2:THE REGIONAL MANAGER,
PUNJAB NATIONAL BANK,
REGIONAL OFFICE AT 125/1,
A G TOWERS, 3RD FLOOR,
PARK STREET, CIRCUS AVENUE,
KOLKATA- 700017.

3:THE ZONAL MANAGER,
PUNJAB NATIONAL BANK,
ZONAL OFFICE, UBI BUILDING,
2ND FLOOR, H.B. ROAD,
PANBAZAR, GUWAHATI, ASSAM- 781001.

4:THE AUTHORIZED OFFICER,
SECURED CREDITOR,
PUNJAB NATIONAL BANK,
CIRCLE SASTRA, SILCHAR,
CENTRAL ROAD,
DIST.- CACHAR,
PIN- 788001.

5:THE BRANCH MANAGER,
PUNJAB NATIONAL BANK,
SILCHAR BRANCH, CENTRAL ROAD,
SILCHAR, CACHAR, ASSAM- 788001.

For the Petitioner : Mr. B.J. Ghosh, Advocate.
: Mr. T. Sk., Advocate.

For the Respondent(s) : Mr. A. Parvez, Advocate.

– BEFORE –
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE SUMAN SHYAM

07.02.2024

(Vijay Bishnoi, CJ)

This writ petition is filed by the petitioner essentially being aggrieved with the action of the respondent Bank of fixing the reserved price of the secured assets contending that the market value of the secured assets is around Rupees 1 Crore 27 lakhs whereas the Bank has fixed the reserved price of the said property as Rs.54.22 lakhs.

The facts, which are not in dispute, are that the respondent Bank had advanced a loan to the petitioner, however, the petitioner has failed to repay the said loan as per the schedule and therefore, proceedings have been initiated against the petitioner under Section 13 and the other relevant provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (In short, SARFAESI Act, 2002). In that process, the respondent Bank has published an auction notice wherein the reserved price of

the secured assets is mentioned as Rs.54.22 lakhs.

Being aggrieved with the same, the petitioner has approached this Court by way of this writ petition contending that the market value of the property is around Rupees 1 Crore 27 lakhs whereas the respondent Bank has fixed the reserved price of the secured assets for a very less amount i.e. less than 50% of the market value of the secured assets.

Reply to the writ petition is filed on behalf of the respondent Bank wherein preliminary objection regarding maintainability of the writ petition is raised.

It is the case of the respondents that against the proceedings initiated by the Bank, the petitioner has a statutory remedy of approaching the Debts Recovery Tribunal (DRT) under Section 17 of the SARFAESI Act, 2002. It is contended by the learned counsel for the respondent Bank that, as a matter of fact, the petitioner has already approached the DRT and the proceedings initiated at the instance of the petitioner before the DRT are pending consideration and in such circumstances, this writ petition is not at all maintainable.

Learned counsel for the petitioner has submitted that though the proceedings before the DRT initiated at the instance of the petitioner is pending consideration but the question regarding the valuation of the secured assets has not been raised before it as the respondent Bank has produced the valuation reports before the DRT recently in the year 2023 whereas the proceedings before the DRT are pending since 2021.

Having heard the learned counsel for the parties and after going through the material available on record, we are of the view that the present writ petition filed by the petitioner being aggrieved with the action of the respondent

Bank, whereby it has fixed the reserved price of the secured assets, is not maintainable as the petitioner has a statutory remedy of approaching the DRT against the action of the respondent Bank under the provisions of the SARFAESI Act, 2002.

It is also to be noted that the petitioner has already initiated proceedings before the DRT and the same are pending consideration. In the interest of justice, we grant liberty to the petitioner to raise objection regarding the action of the respondent Bank of valuing the secured assets within a period of one week from today.

If any such objection is filed by the petitioner, we expect that the DRT shall consider the same along with the other grounds raised by the petitioner in the pending proceedings.

We request the DRT to decide the Original Applications (O.A.) filed by the petitioner as well as the Bank within a period of 6(six) weeks from the date of production of a certified copy of this order.

Till the Original Applications filed by the petitioner and the Bank are decided by the DRT, Guwahati, the interim order passed by this Court on 19.09.2023 shall remain in currency.

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

JUDGE

CHIEF JUSTICE

Comparing Assistant