

GAHC010218722024



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

Case No. : WP(C)/5311/2024

DHRUBA JYOTI HAZARIKA
S/O- LATE DHARMA KANTA HAZARIKA,
R/O- AMRITPUR ROAD, OPP. DISPUR HOSPITAL, GANESHGURI,
GUWAHATI, ASSAM

VERSUS

STATE BANK OF INDIA AND 4 ORS
REP. BY ITS CHIEF MANAGER,
STRESSED ASSETS RECOVERY BRANCH, (SARB), GIRISH MANSION, MRD
ROAD, BAMUNIMAIDAM, GUWAHATI-21, DIST- KAMRUP (M), ASSAM

2:STATE BANK OF INDIA
REP. BY ITS BRANCH MANAGER
COMMERCIAL BRANCH
B.K TOWER
GANESHGURI
GUWAHATI-06
DIST- KAMRUP(M)
ASSAM

3:THE REGIONAL MANAGER
STATE BANK OF INDIA

COMMERCIAL BRANCH
BHANGAGARH

GUWAHATI-05
DIST- KAMRUP(M)
ASSAM

4:THE AUTHORIZED OFFICER
STATE BANK OF INDIA

COMMERCIAL BRANCH
B.K TOWER
GANESHGURI
GUWAHATI-06
DIST- KAMRUP(M)
ASSAM

5:DISTRICT MAGISTRATE
KAMRUP(M)

O/O THE DISTRICT MAGISTRATE

GUWAHATI-01
DIST- KAMRUP(M)
ASSA

For petitioner/appellant(s) : Mr. N. Das, Advocate
Ms. A. Das, Advocate
Ms. S. Sharma, Advocate
For respondent(s) : Mr. N. Das, Govt. Advocate

– BEFORE –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI

HON'BLE MR. JUSTICE KARDAK ETE

21.10.2024

(Vijay Bishnoi, CJ)

This writ petition is filed by the petitioner with a prayer to direct the respondent Bank to stay the execution and operation of notice dated 27.09.2024 issued under Section 14 of the SARFAESI Act until final disposal of the appeal filed by the petitioner and is pending before the Debts Recovery Appellate Tribunal, Kolkata. In alternative, the petitioner has also prayed that a writ in the nature of certiorari be issued and the notice dated 27.09.2024 issued under

Section 14 of the SARFAESI Act by the District Magistrate, Kamrup(M) Guwahati may be quashed and set aside.

- 2.** It is to be noted that the application filed by the petitioner before the Debt Recovery Tribunal, Guwahati under Section **17** has been dismissed on 26.08.2024. Against the said dismissal, the petitioner has the remedy to approach the Debts Recovery Appellate Tribunal by filing an appeal under Section 18 of the Securitisation Act and the petitioner has already availed the said remedy.
- 3.** It is contended by the learned counsel for the petitioner that since the Debts Recovery Appellate Tribunal, Kolkata is closed on account of Puja up to 1st November, 2024, this Court may grant indulgence and restrain the respondent Bank to take any coercive act against the petitioner till 1st November, 2024.
- 4.** Having heard the learned counsel for the petitioner and after going through the materials available on record, we are of the view that no such indulgence can be granted by this Court while exercising extra ordinary jurisdiction when the statutory appeal filed by the petitioner is already pending consideration before the Debts Recovery Appellate Tribunal, Kolkata.
- 5.** The petitioner is free to approach the Debts Recovery Appellate Tribunal, Kolkata by moving appropriate application for urgent hearing of the appeal

preferred by him during the puja vacation.

- 6.** Hence, we are not inclined to entertain the petition and accordingly, the same is dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant