GAHC030008712025

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

Case No. : CRP/15/2025

Mizoram Rural Bank and Anr.
R/b General Manager, Head Office, New Capital, Khatla, Aizawl, Mizoram 2:
The Chief Mange

VERSUS

Smt Lalduhawmi Chawngthu and 4 Ors.
D/o C.Thantluanga (L), R/o Mission Veng, Aizawl 2:Smt Laldinpuii

3:Sh Zirsangzela Fanai

4:The District Magistrate

5:The Asstt. Commissioner-I

Advocate for the Petitioner : Mr C Zoramchhana

Advocate for the Respondent : Addl. AG/GA, Mizoram for R4 & R5

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

08.10.2026

Heard Mr. Lalvensanga, learned counsel appearing on behalf of Mr. C. Zoramchhana, learned senior counsel for the petitioners. Also heard Mrs. Vanneihsiami, learned Government Advocate for the respondent Nos. 4 & 5.

2. Mr. Lalvensanga, learned counsel appearing on behalf of Mr. C. Zoramchhana, learned senior counsel for the petitioners has put to challenge the impugned Order dated 27.10.2023 passed by the Civil Judge (Senior Division)-I, Aizawl in CMA No. 846/2023, by which it has directed the petitioners not to dispossess the respondent No. 1 of the ground floor of the building located at Mission Veng covered under LSC No. 1025/13/01/168 of 2000, the possession of which had been taken over by the petitioner bank under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 *(herein after referred to as the 'SARFAESI Act, 2002')* read with Rule 9 of the SARFAESI Rule 2011, vide possession notice dated 25.08.2023.

3. Section 13(4) of the SARFAESI Act, 2002 provides that in case the borrower fails to discharge his liability in full with regard to repayment of his secured debt or any instalment thereof, and his account in respect of such debt is classified by the secured creditor as the non-performing assets, then the secured creditor may require the borrower to discharge his liabilities by way of a notice. If the said requirement to discharge his liabilities is not undertaken by the borrower, possession of the secured assets can be taken by the secured creditor.

4. Section 17 of the SARFAESI Act, 2002 provides that if any person, including the borrower, is aggrieved by any of the measures taken under Section 13(4) of the SARFAESI Act, 2002, he may make an application with regard to his grievance before the Debts Recovery Tribunal having jurisdiction in the matter, within the prescribed time limit of 45 days.

5. Section 34 of the SARFAESI Act, 2002 states that no Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Debts Recovery Tribunal or the Appellate Tribunal is empowered by or under the SARFAESI Act to determine and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under the SARFAESI Act or under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

6. The above provisions of law have clearly spelt out the fact that if the borrower is aggrieved by any action taken by the bank under Section 13(4) of the SARFAESI Act, 2002, the only recourse left to the borrower against the possession notice dated 25.08.2023 would lie before the Debts Recovery Tribunal, Guwahati. Further, the jurisdiction of the Civil Court in granting injunction is specifically barred by Section 34 of the SARFAESI Act, 2002.

7. In that view of the above, the impugned Order dated 27.10.2023 passed by the Civil Judge (Senior Division)-I, Aizawl in CMA No. 846/2023 arising out of Civil Suit No. 148/2023 is in excess of jurisdiction and is liable to be set aside. However, no one appears on behalf of the respondent Nos. 1 to 3.

8. The office note dated 01.10.2026 states that notices sent to respondent Nos. 1 & 2 have returned on 17.07.2026 with postal remarks 'Not found'. Meanwhile, duly signed A/D card has returned from respondent No. 3 on 17.07.2026.

9. On account of the fact that the address given by the respondent Nos. 1, 2 & 3 in CMA No. 846/2023 arising out of Civil Suit No. 148/2023, which is also

reflected in the impugned Order dated 27.10.2023 is the same as the address given in the present petition, I am of the view that notice is deemed to have been served upon the respondent Nos. 1, 2 & 3. When the address of the respondent Nos. 1 to 3 before the learned Civil Court was the same as the address given in the present petition, there can be no reason for the respondent Nos. 1 & 2 not being found in the address given by them before the learned Civil Court.

10. In view of the reasons stated above, I am of the view that the learned Civil Court has gone beyond it's jurisdiction in entertaining the CMA No. 846/2023 arising out of Civil Suit No. 148/2023 and passing an injunction order against the possession notice dated 25.08.2023. The impugned Order dated 27.10.2023 is accordingly set aside.

11. The petition is accordingly allowed.

JUDGE

Comparing Assistant