

GAHC010013972024



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

Case No. : WP(C)/352/2024

MUSLIM ALI
S/O MAKBUL ALI, HOUSE NO. 43, WARD NO. 59, DAKHINGAON,
KAHILIPARA, DIST. KAMRUP (M), GUWAHATI, PIN-781037

VERSUS

1: THE BANK OF BARODA AND ANR REPRESENTED BY THE CHIEF
MANAGER, GUWAHATI BRANCH (MAIN), B.R. KALITA COMPLEX, FANCY
BAZAR, M.S. ROAD, GUWAHATI-781001

2:THE BRANCH MANAGER/CHIEF MANAGER, BANK OF BARODA
GUWAHATI BRANCH (MAIN) B.R. KALITA COMPLEX FANCY BAZAR
M.S. ROAD GUWAHATI-781001 ASSAM

For the Petitioner(s) : Mr. M.K. Choudhury, Senior Advocate, assisted by Mr. R.J. Das,
Advocate.

For the Respondent(s) : Mr. B.P. Borah, Advocate for all respondents.

- B E F O R E -
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE SUMAN SHYAM

01.03.2024
(Vijay Bishnoi, CJ)

By this petition essentially the petitioner has challenged the possession notice issued by the respondent Bank while exercising powers under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "SARFAESI Act").

Mr. M.K. Choudhury, learned senior counsel for the petitioner has submitted that earlier the petitioner has approached this Court by way of filing WP(C) No.3894/2022 and the said writ petition was disposed of by this Court vide order dated 17.08.2022 while directing the respondent Bank to consider the representation filed by the petitioner under Section 13(3A) of the SARFAESI Act and also issued a direction to the respondent Bank to consider the same keeping in mind the proviso to the said provision and pass a reasoned order within a period of 2(two) months from the date of receipt of a certified copy of that order. Mr. Choudhury, learned senior counsel has submitted that the said direction given by this Court has not been complied with.

We are of the view that if any direction passed by this Court in earlier writ petition has not been compiled with, the petitioner can very well file a contempt petition for non-compliance of the Court's order.

So far as regarding the possession notice issued by the respondent Bank dated 12.01.2024 is concerned, the petitioner has an alternate and efficacious remedy to approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act. Hence, we are not inclined to entertain this writ petition and the same is hereby dismissed with liberty to the petitioner to approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act.

JUDGE

CHIEF JUSTICE