

GAHC010011592024



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

Case No. : WP(C)/882/2024

M/S GAYAN STEEL FABRICATION
PROPRIETOR OF M/S GAYAN STEEL FABRICATION SRI NITUN GAYAN,
AGED ABOUT 45 YEARS S/O- LATE BANAMALI GAYAN, VILL- MURHANI,
P.O. CHALCHALI, PURONIGUDAM, P.S. SAMAGURI, DISTRICT- NAGAON
(ASSAM)

VERSUS

1. THE UNION OF INDIA AND 6 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY, DEPARTMENT OF MICRO,
SMALL AND MEDIUM ENTERPRISE NIRMAN BHAWAN AZAD ROAD, NEW
DELHI 110108

2:THE CHAIRMAN AND MANAGING DIRECTOR
REPRESENTED BY SMALL INDUSTRIES DEVELOPMENT BANK OF INDIA
SIDBI TOWN, 15 ASHOK MART, LAKHNOW 226001

3:THE DEPUTY GENERAL MANAGER
REPRESENTED BY SMALL INDUSTRIES DEVELOPMENT BANK OF INDIA
SHREEJI TOWN, 3RD FLOOR, GS ROAD
CHRISTIAN BASTI, GUWAHATI- 781006

4:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER OF INDUSTRIES AND
COMMERCE, ASSAM
UDYOG BHAWAN, BAMUNIMAIDAM, GUWAHATI-21

5:THE COMMISSIONER
OF INDUSTRIES AND COMMERCE, ASSAM
UDYOG BHAWAN, BAMUNIMAIDAM, GUWAHATI-21

6:THE GENERAL MANAGER
DISTRICT INDUSTRIES AND COMMERCE CENTRE NAGAON, ASSAM
PIN- 782001

7:THE BRANCH MANAGER
CANARA BANK
NAGAON BRANCH SITUATED AT VIP ROAD
NAGAON- 78200

For the Petitioner : Mrs. G. Borah, Advocate.
For the Respondent(s) : Mr. N. Kalita, Advocate on behalf of Mr. A. Kalita, Standing Counsel, Industries and Commerce for respondent Nos.4, 5 & 6.

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

21.02.2024

(Vijay Bishnoi, CJ)

This writ petition is filed by the petitioner essentially challenging the validity of the notice issued by the respondent Financial Institution under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to be as "the SARFAESI Act, 2002"). The petitioner has also challenged the validity of the e-auction sale notice dated 16.02.2021.

It is noticed that against the proceedings under Section 13(4) of the SARFAESI Act, 2002 and the e-auction notice dated 16.02.2021, initiated at the instance of the respondent Financial Institution, the petitioner has already approached the Debt Recovery Tribunal (DRT), Guwahati by filing S.A. No.10/2021 and the DRT, Guwahati vide order dated 17.10.2023 (Annexure-20) has already dismissed the said S.A.

We are of the firm opinion that against the order passed by the DRT, Guwahati dated 17.10.2023, the petitioner has an efficacious remedy to prefer

an appeal before the Appellate Tribunal under Section 18 of the SARFAESI ACT, 2002.

In such circumstances, we are not inclined to entertain this writ petition. The same is therefore dismissed. However, liberty is granted to the petitioner to avail the remedy of appeal before the Appellate Tribunal under Section 18 of the SARFAESI Act, 2002.

JUDGE

CHIEF JUSTICE

Comparing Assistant