

GAHC010042182024



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

Case No. : WP(C)/1149/2024

1: M/S SUCHAKRA MOTORS AND ANR
PROPRIETOR SRI PANKAJ HAZARIKA, S/O- LATE DILIP HAZARIKA, WARD NO. 2 KALYANPUR, NEAR KALYANPUR M E SCHOOL, P.O. BOKAKHAT-785612, DIST. GOLAGHAT, ASSAM

2: PANKAJ HAZARIKA
S/O- LATE DILIP HAZARIKA C/O- M/S SUCHAKRA MOTORS WARD NO. 2 KALYANPUR NEAR KALYANPUR M E SCHOOL P.O. BOKAKHAT-785612 DIST. GOLAGHAT ASSAM

VERSUS

1: CANARA BANK AND 2 ORS A BODY CORPORATE DULY CONSTITUTED UNDER THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1970 (ACT-V OF 1970 HAVING ITS HEAD OFFICE AT BANGALORE, CARRYING ON BANKING BUSINESS THROUGH DIVERSE BRANCHES AND IN PARTICULAR A BRANCH AT BOKAKHAT, KNOW AS BOKAKHAT BRANCH, GOLAGHAT-785612, DIST. GOLAGHAT, ASSAM, REP. BY ITS BRANCH MANAGER.

2:THE AUTHORISED OFFICER CANARA BANK REGIONAL OFFICE 1ST FLOOR MUSKAN PLAZA N.T. ROAD TEZPUR SONITPUR ASSAM PIN- 784001.

3:PRESIDING OFFICER DEBT RECOVERY TRIBUNAL SWARNA BHAWAN NEW TOWN ROAD ULUBARI ASSAM-781007

For the Petitioner(s) : Mr. T. Roy, Advocate.

For the Respondent(s) : Mr. M. Sharma, Standing Counsel, Canara Bank for all respondents.

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

28.02.2024
(Vijay Bishnoi, CJ)

This writ petition is filed on behalf of the petitioners essentially being aggrieved with the e-auction notice dated 06.02.2024, whereby the respondent Bank has proposed to auction the land and building mortgaged with it by the petitioners in lieu of a loan of ₹ 35,00,000/- (Rupees Thirty Five Lakhs).

The petitioners have not paid the monthly installments in time and, therefore, the loan account of the petitioners was declared as Non-Performing Assets (NPA) and proceedings under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "Act of 2002") has been initiated against them. In those proceedings, a notice under Section 13(4) of the Act of 2002 was issued by the respondent Bank and the same has been challenged by the petitioners before the Debts Recovery Tribunal, Guwahati by moving an application under Section 17 of the Act of 2002. However, the said application was dismissed by the Tribunal on 25.01.2024 and, therefore, the e-auction notice dated 06.02.2024 was issued by the respondent Bank.

Having heard the learned counsel for the petitioners for quite some time, we are of the view that the matters relating to initiation of a proceeding against a borrower by a financial institution under the provisions of the Act of 2002 are ordinarily not entertainable by the High Court while exercising its power of extra-ordinary jurisdiction under Article 226 of the Constitution of India, in view of the various pronouncements of the Hon'ble Supreme Court and the proper course for the aggrieved party is to approach the authorities under

the provisions of the Act of 2002. In the present case, the petitioners have already approached the Debts Recovery Tribunal by moving an application under Section 17 of the Act of 2002 and the same has already been dismissed, the remedy available to the petitioners is to approach the Appellate Tribunal under Section 18 of the Act of 2002.

Hence, we are not inclined to interfere in this writ petition and the same is, therefore, dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant