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

Case No. : FAO/20/2026

MAZIDA RAHMAN
W/O LATE IMRAN ALI, R/O FLAT NO 4A, 2ND FLOOR, HOUSE NO 6,
NAYANPUR, JAPORIGOG, BYE LANE NO. 2, P.O- DISPUR, P.S- DISPUR,
DISTRICT- KAMRUP (M), ASSAM, PIN- 781005

VERSUS

M/S A M CONSTRUCTION AND 2 ORS.
A PARTNERSHIP FIRM HAVING ITS REGISTERED OFFICE AT HOUSE NO 6,
BYE LANE NO. 2, P.O- DISPUR, P.S- DISPUR, DIST- KAMRUP (M), ASSAM,
PIN- 781005, REPRESENTED BY ONE OF ITS PARTNERS ALAUDDIN
AHMED, AGED ABOUT 48 YEARS, S/O LATE MAMTAJ ALI, R/O NAYANPUR,
JAPORIGOG, HOUSE NO. 6, BYELANE NO. 2, P.O AND P.S- DISPUR, DIST-
KAMRUP (M), ASSAM, PIN- 781005

2:ALAUDDIN AHMED
S/O LATE MAMTAJ ALI
R/O NAYANPUR
JAPORIGOG
HOUSE NO. 6
BYELANE NO. 2
P.O AND P.S- DISPUR
DIST- KAMRUP (M)
ASSAM
PIN- 781005

3:THE CHIEF MANAGER CUM AUTHORIZED OFFICER
BANK OF BARODA
HOUSE NO 28
FIRST FLOOR
A.M. ROAD
SUHAGPUR
GUWAHATI- 78100

Advocate for the Petitioner : MR P R SARMA, MS P DEVI

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE PRANJAL DAS

ORDER

20.03.2026

1. Heard Mr. P. R. Sarma, learned counsel for the appellant who has filed his appeal under Order 43, rule 1(r) CPC, against the impugned order dated 9/3/2026, passed in Misc(J) case No. 294/26, arising out of Title Suit 147/2026, pending before the learned Civil Judge, Senior Division No. 2, Kamrup (M).

2. By the impugned order, though notice has been issued on the injunction application of the appellant, but the learned court below did not pass any order of ex-parte interim injunction. The appellant is aggrieved by the same.

3. The plaintiff is stated to have received the notice under Section 13 of the SARFAESI Act regarding the Schedule-B property where the schedule-A property of the plaintiff-appellant is also stated to have been located. It is submitted that though the appellant-plaintiff pursued the remedy before DRT but the DRT did not pass any orders in favor of the appellant with regard to the protection of the property. In the meantime, the suit was filed and upon the application for temporary injunction, Misc(J) Case No. 294/2026 was registered, where notice has been issued.

4. Section 34 of the SARFAESI Act, *prima facie* bars civil court from entertaining a civil suit with regard to any notices issued under the SARFAESI Act in proceeding before DRT. However, in terms of the settled law, a window

of exception is available largely in case of fraudulent transactions.

5. The learned counsel has referred to the decision of *Central Bank of India & Anr vs Smt. Prabha Jain & Ors* reported in (2025) 4 SCC 38 and also another judgment of *Dalpat Kumar & Anr versus Prahlad Singh & Others* reported in (1992) 1 SCC 719, which is generally on the issue of injunction and interim orders.

6. The learned trial court is seized of the issue of injunction and whereupon notices have been issued to the parties, especially the bank as respondent No. 3 therein.

7. Considering the aspect of Section 34 of the SARFAESI Act, at this stage, I am not inclined to stay the impugned order of refusing or not granting any ex-parte order.

8. However, the appeal is **admitted** for hearing.

9. Steps of notice upon the respondent shall be taken by the appellant side by speed post as well as by dasti mode and submit compliance AFFIDAVIT.

10. Call for the scanned copy of the case record of Misc(J) Case No. 294 of 2026, (in connection with TS No. 147 of 2026).

11. List the matter on 30.03.2026.

JUDGE

Comparing Assistant