

GAHC010056902026



undefined

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 : MR. U SAIKIA(R3),

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

30.03.2026

Heard Mr. P. R. Sarma, learned counsel for the appellant. Also heard Mr. B. Hussain, learned counsel appearing for the respondent no. 2 as well as Shri U. Saikia, learned counsel appearing for the respondent no. 3-Bank.

2. Shri B. Hussain, the learned counsel for the respondent no. 2 submits that the respondent no. 2 would be filing written objection against the contentions taken by the present appellant in the memo of appeal and seeks some time for filing the written objection. The prayer is allowed.

3. However, the learned counsel for the appellant/respondent no. 2 submits that he does not have any objection, if in the meanwhile an interim relief is granted to the appellant.

4. He submits that the respondent no. 2 has also filed a title suit which has been registered as TS No.486/2025 wherein he has also filed an application under Order 39 Rules 1 & 2 of the CPC, seeking temporary injunction against the Bank (respondent no. 3). He further submits that the respondent no. 2 has never mortgaged the suit property i.e. Schedule A land of the plaint filed in TS No. 486/2025. He submits that the Schedule A land in suit filed by the respondent no. 2 as well as the suit filed by the present appellant i.e. TS No.

137/2026 are identical. He submits that by order dated 22.12.2025 passed in Misc (J) Case No. 1227/2025 in connection with TS 486/2025, the Court of learned Civil Judge, Senior Division No. 3 had granted *ex-parte* ad interim injunction restraining the Bank and taking any coercive action in respect of the suit land (Schedule A land or flat).

5. Learned counsel for the respondent no. 2 has also submitted that the Schedule A land has never been mortgage by him to any Bank and the Bank has committed forgery in claiming that a purported loan has been granted in the name of one Allauddin which according to learned counsel for the respondent no. 2, is a fictitious person.

6. On the other hand, learned counsel for the appellant submits that the appellant has purchased the flat more particularly describe in Schedule B of the plaint filed in TS/147/2026. He submits that the said flat (Schedule B) is situated over a plot of land fully described in Schedule A. He further submits that the present appellant had purchased the aforesaid flat (Schedule B, flat) from respondent no. 2 in the year 2011. However, he fairly submits that though full consideration amount of the aforesaid purchase has been paid to respondent no. 2, however, no sale deed is yet registered by respondent no. 2 in favour of the present appellant. He further submits that the present appellant is in physical possession over the suit flat (Schedule B Property) since 2019.

7. Learned counsel for the appellant has further submitted that the appellant had also approached DRT (Debt Recovery Tribunal) which has been registered as SA No. 18/2026 in which notice have been issued to other side. However, he submits that since the respondent no. 3 (Bank) has affixed a notice under Section 13 of SARFAESI Act on the Schedule B property, which has come to the

notice of the present appellant, the apprehends that unless some interim protection is granted to him, the Bank may proceed with auction sale of the suit property. He submits that the present appellant is no way involved in the purported loan for non-payment of which the actions against the SARFAESI Act is sought to be taken by the Bank.

8. On the other hand, Mr. U. Saikia, learned counsel for the respondent no. 3 – Bank submits that the respondent no. 3 may be granted some time for filing written objection in this appeal.

9. Let the matter be listed again on **04.05.2026**. Before the said date both the respondent nos. 2 & 3 may file their written objection. However, considering the submissions made by learned counsel for the appellant as well as the respondents, as discussed in the foregoing paragraphs, the Bank i.e. respondent no. 3 is directed to maintain *status quo* in respect of Schedule B property till the next date fixed in this appeal.

10. List accordingly.

JUDGE

Comparing Assistant