

GAHC010100252024



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

Case No. : WA/175/2024

MRS. PURABI DEKA
W/O MR. DHARMESWAR DEKA,
R/O CHANDMARI, P.O.-SILPUKHURI,
P.S.-CHANDMARI, DIST-KAMRUP (M),
PIN-781003, ASSAM

2: NABA KANTA BORA
S/O LATE GOLAK CHANDRA BORA
R/O PRAGATI RESIDENCY
BLOCK X
BARNACHAL PATH
BYE LANE NO. 1
BAMUNIMAIDAM
GUWAHATI-781021
DIST-KAMRUP (M)
ASSAM

-VERSUS-

THE STATE BANK OF INDIA
REPRESENTED BY THE CHAIRMAN,
STATE BANK BHAWAN, M.C. ROAD,
NARIMAN POINT, MUMBAI,
MAHARSTHRA, PIN-400028

2:THE BRANCH MANAGER
STATE BANK OF INDIA
G.N.B. ROAD
SILPUKHURI
GUWAHATI-781003
DIST-KAMRUP (M)
ASSAM

3:THE BRANCH MANAGER
STATE BANK OF INDIA
M.C. ROAD
BAROWARI
GUWAHATI-781001
DIST- KAMRUP (M) ASSAM

4:PARESH KUMAR GOGOI
S/O LATE KULA DHAR GOGOI
R/O FLAT NO. 410
LAXMI NIWAS
SAMMANA PATH
SURVEY, BELTOLA
GUWAHATI-781028
KAMRUP (M) ASSAM

For the appellants : Mr. M. Sarma, Advocate

For the respondents : Mr. K. Das, Advocate for
Respondent Nos.1, 2 & 3

Mr. B. Chakraborty, Advocate
Mr. S.P. Bhattacharjee and
Ms. A. Khasnabish, Advocates for
Respondent No.4.

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

25-02-2026

(Ashutosh Kumar, C.J.)

We have heard Mr. M. Sarma, learned Advocate for the appellants and Mr. K. Das, learned Advocate for the respondent Nos.1 to 3 and Mr. B. Chakraborty, learned Advocate assisted by Mr. S.P. Bhattacharjee and Ms. A. Khasnobish, learned Advocates for respondent No.4

2. The challenge in this appeal is to the judgment dated 22.04.2024 passed by a learned Single Judge of this Court in WP(C) 3946/2023, whereby no interference has been made at the instance of the appellants against a decision of the Bank to freeze the account of the firm on the complaint and asking of respondent No.4.

3. The facts reveal that a partnership deed was executed between three partners, two being the appellants herein for establishing a firm under the name and style of "Pragati". According to the partnership deed, all the partners had agreed to take active part in enhancement and conduct of the partnership business and its other affairs as working partners of the firm. It was also stipulated in the deed that any two of the partners could jointly execute any agreement etc. with any other party on behalf of the firm. So far as operation of the bank account in the name of the firm is concerned, the partnership deed clearly stated that the firm shall open an account with any bank or banks in the name of the partnership firm, namely, M/s Pragati and all cheques drawn on the partnership account shall be signed jointly by any two of the partners of the firm.

Over a passage of time, dispute arose between the partners and the respondent No.4, sensing foul play at the hands of the appellants as partners, wrote a letter to the Branch Managers of the two branches of the State Bank of India where firm account had been opened, to freeze the same/stop payments on account of the possibility of siphoning off/swindling the money in the joint account of the firm.

It further appears that on 23.05.2023, the firm stood dissolved at the

instance of the appellant No.1.

4. Mr. Sarma, learned Advocate has, however, contended that the decision to stop payment or to freeze the firm account was taken unilaterally by the two branches of the State Bank of India on 11.04.2023 without even intimating the appellants. This could not have been done as before the dissolution of the firm, there were certain payment liabilities of the firm, which obligation could not be discharged for the reason of the account having been frozen by the two branches of the State Bank of India.

5. A Title Suit (T.S. No.323/2023) also appears to have been filed by the appellants for rendition of account which is still pending consideration.

Thereafter, the appellants approached this Court seeking a writ of mandamus directing the State Bank of India/respondent Nos.1 to 3 to allow the appellants to operate the bank account opened at the branches (respondent Nos.2 and 3) and the reason for preferring this petition was the obligation to pay certain surviving dues to the State entities.

6. The learned Single Judge, on finding that the appellants had preferred the Title Suit No.323/2023, observed that the appellants had wrongly invoked the jurisdiction of this Court under Article 226 of the Constitution of India and held that invoking such jurisdiction at the instance of the appellants was an abuse of the process of the Court. However, it was also observed by the learned Single Judge that the judgment passed by it shall not preclude the Trial Court in *seisin* of the proceedings of T.S. No.323/2023 to pass any such decree or order as

would be permitted under law for appropriation of the balance available in the two above-referred bank accounts with the respondent Nos.2 and 3 in respect of M/s Pragati, the partnership firm of the appellants and respondent No.4.

7. With the dissolution of the firm and the pendency of the title suit, even a right, which could be invoked under Section 53 of the Indian Partnership Act, 1932, would be available to the parties.

8. Presently, since the firm stands dissolved and the dispute is pending consideration before the Civil Court, the learned Single Judge rightly did not interfere with the decision of the bank and did not direct for making the bank account of the firm operative only because two of the partners could jointly manage the account. That such decision should not have been taken unilaterally by the bank on the complaint of one of the partners is something which cannot be agitated at the present moment when a civil suit is pending and the firm stands dissolved.

There is no merit in this appeal and the same is accordingly dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant