

GAHC010259402025



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

Case No. : I.A.(Civil)/3796/2025

PRADIP KUMAR DAS
S/O LATE ABHOY CHARAN DAS, R/O FATASIL AMBARI, NIPEN BORA
ROAD, GUWAHATI, KAMRUP M, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SPECIAL SECRETARY, PWD
ROADS, DEPTT., GOVT. OF ASSAM, DISPUR, GUWAHATI, DIST. KAMRUP M,
ASSAM, PIN 781006

2:THE CHIEF ENGINEER

PWD ROAD
ASSAM
CHANDMARI
GUWAHATI 781003
DIST KAMRUP M ASSAM 781003

3:THE SUPERINTENDENT ENGINEER

PUBLIC WORKS DEPARTMENT
DIBRUGARH ROAD CIRCLE
DIBRUGARH

4:THE EXECUTIVE ENGINEER

PUBLIC WORKS DEPARTMENT
DIBRUGARH ROAD DIVISION
DIBRUGAR

Advocate for the Petitioner : MR. N ALAM, S A BAKHTIAR,MR K JAIN

Advocate for the Respondent : MS M DAS,

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

ORDER

Date : 17.12.2025

- 1.** Heard Mr. N. Alam, learned counsel for the applicant. Also heard Mr. A. Biswas, learned counsel for the respondents.
- 2.** This interlocutory application has been filed by the applicant who is the respondent in the connected RFA No. 5/2025 praying for expeditious hearing of the connected RFA No. 5/2025.
- 3.** The learned counsel for the applicant has submitted that the present petitioner is the decree holder in Title Suit No. 362/2014 and the respondent/State was directed to pay an amount of Rs.2,98,76,518.39/- along with an interest at the rate of 6% per annum. He, however, submits that the State respondents have preferred the connected RFA No. 5/2025 in which a stay was granted on execution of the decree obtained by the present petitioner in Title Suit No. 362/2014. He further submits that though the stay was granted subject to payment of 50% of the decretal amount in pursuant to the order passed by the Apex Court in the SLP preferred by the respondent/appellant and though it was also provided that the present petitioner can take that money. However, the condition was imposed of furnishing bank guarantee of an equal amount by the petitioner.
- 4.** The learned counsel for the petitioner submits that the petitioner is unable to furnish bank guarantee and, therefore, the money deposited by the State respondent cannot be taken by the present petitioner. He further submits that, in the meanwhile, the Punjab National Bank has issued a notice under

Section 13(2) of SARFAESI Act, 2002 demanding the payment of Rs.31,67,567/- within 60 days of the said notice, failing which, action under Section 13(4) of the said Act would be initiated.

5. The learned counsel for the petitioner further submits that on failure of the petitioner to comply with the notice under Section 13(2) of the said Act, the Punjab National Bank had already initiated the proceedings under Section 13(4) SARFAESI of the Act, 2002. He submits that under such circumstances, the urgency of expeditiously deciding the connected regular first appeal, where the petitioner is the decree holder. However, due to his inability to furnish bank guarantee, he is even not capable of withdrawing the security deposit made by the State respondent as a condition of stay of the execution of the decree in Title Suit No. 362/2014.

6. On the other hand, Mr. A. Biswas, learned counsel for the respondent has submitted that the grounds shown by the petitioner in the interlocutory application do not justify in itself an order of expeditious hearing of the connected appeal inasmuch as the notice under Section 13(4) SARFAESI Act, 2002 which is appealable under Section 17 of the SARFAESI Act, 2002 before the DRT and, therefore, the petitioner has alternative remedy without pressing for out-of-turn listing and hearing of the connected appeal.

7. I have considered the submissions made by the learned counsel for both sides.

8. On perusal of the record, it appears that though the connected regular first appeal has been filed in the year 2024 itself, however, considering the circumstances as submitted by the learned counsel for the petitioner regarding his inability of even withdrawing the portion of the decretal amount which has

been deposited by the State respondent as he is unable to furnish any bank guarantee as stipulated in the order dated 20th of January, 2025 in Civil Appeal No. 842/2025 to be a good ground which requires the connected regular first appeal to be heard and disposed of expeditiously out of turn.

9. Accordingly, this interlocutory application is allowed and the Registry is directed to list the connected RFA No. 5/2025 for hearing on 22nd of January, 2026.

JUDGE

Comparing Assistant