

GAHC010273522025



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

Case No. : RSA/218/2025

UCO BANK AND 2 ORS
10 BTM SARANI, KOLKATA 700001, WEST BENGAL, INDIA, REPRESENTED
BY THE BRANCH MANAGER OF UCO BANK, RANGAPARA BRANCH, P.O.
AND P.S- RANGAPARA, DIST- SONITPUR, ASSAM 784505.

2: UCO BANK
RANGAPARA BRANCH
REPRESENTED BY THE BRANCH MANAGER
P.O. AND P.SRANGAPARA
DIST- SONITPUR
ASSAM-784505.

3: AUTHORISED OFFICER UNDER THE SARFAESI ACT
2002 OF THE UCO BANK
RANGAPARA BRANCH
P.O. AND P.S- RANGAPARA
DIST-SONITPUR
ASSAM-784505

VERSUS

SRI PRADIP KUMAR SAIKIA
S/O LATE ANANDI SAIKIA, VILLAGE- NIZ BIHAGURI KALITAGAON, P.O.
AND P.S- TEZPUR, DIST- SONITPUR, ASSAM 784001.

Advocate for the Petitioner : MR. A GANGULY, MR. A DHANUKA, MR M K ROY

Advocate for the Respondent : ,

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

ORDER

Date : 15.12.2025

- 1.** Heard Mr. A. Ganguly, learned counsel for the appellants.
- 2.** This appeal under Section 100 of the Code of Civil Procedure, 1908 has been preferred by the appellants impugning the judgment dated 30.08.2025 and decree dated 11.09.2025 passed by the Court of learned Civil Judge (Senior Division), Sonitpur at Tezpur in Title Appeal No. 25/2024 whereby it set aside the judgment dated 04.11.2024 and decree dated 05.11.2024 passed by the Court of learned Civil Judge (Junior Division) No. 1, Sonitpur in Title Appeal No. 30/2023.
- 3.** The learned counsel for the appellant has submitted that the respondent had filed a Title Suit No. 30/2023 against the present appellants in the Court of learned Civil Judge (Junior Division) No. 1, Tezpur seeking declaratory relief as well as injunction against the present appellants. He submits that though the said suit proceeded *ex-parte* against the present appellants by the judgment dated 04.11.2024, the Trial Court dismissed the suit of the plaintiff mainly on the ground that the suit of the plaintiff was found by the Trial Court as barred by Section 34 of the SARFAESI Act. Against the judgment and decree of the Trial Court, the respondent preferred an appeal. The said appeal was registered as Title Appeal No. 25/2024 before the Court of learned Civil Judge (Senior Division), Sonitpur.
- 4.** The learned counsel for the appellants submits that the First Appellate Court by misconstruing the provision of Order 41 Rule 14(4) of the CPC did not issue any notices to the present appellants in the appeal preferred by the respondent and proceeded *ex-parte* against the present appellants and ultimately allowed the appeal by the impugned order.
- 5.** The learned counsel for the appellants has submitted that the Trial Court by misconstruing the provisions of Order 41 Rule 14(4) of the CPC not only

proceeded the *ex-parte* but also deprived the present petitioners of their due right to file cross-objection in the said appeal.

6. After hearing the submissions made by the learned counsel for both sides and after going through the materials on record, following substantial question of law are formulated in this appeal:-

“(i) Whether the First Appellate Court committed an act of perversity by misconstruing the provisions of Order 41 Rule 14(4) of the CPC and by dispensing with the notice to the present appellants in the main appeal filed by the respondent.

(ii) Whether the First Appellate Court has committed gross error of law in failing to consider that even a person against whom ex-parte decree has been passed has a right to file cross-objection in order to challenge some part of the decree or some finding therein and thereby deprived the appellants and valuable right under Order 41 Rule 22 of the CPC.

7. This appeal is admitted for hearing.

8. Issue notice to the respondent.

9. Call for the records of Trial Court as well as First Appellate Court.

10. The appellants shall take steps for issuance of notice upon the respondent by speed post as well as by usual mode within seven days from the date of this order, returnable after four weeks.

11. List this matter after four weeks on receipt of the records.

JUDGE

Comparing Assistant