

GAHC020001932025

2026:GAU-NL:140



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

Case No. : WP(C)/63/2025

MR VIHUTO I AOMI
S/O IKISHE AOMI, R/O H/NO. 82, ERLBILL VILLAGE, DIMAPUR,
NAGALAND

VERSUS

THE CHIEF MANAGER, BANK OF BARODA AND 2 ORS
CIRCULAR ROAD, DIMAPUR, NAGALAND

2:THE ADDITIONAL DISTRICT MAGISTRATE
DIMAPUR NAGALAND

3:THE EXTRA ASSISTANT COMMISSIONER(REVENUE)
DIMAPUR NAGALAN

Advocate for the Petitioner : A. ZHIMOMI, NEITSEIZONUO SOLO,VITO K SHOHE,G
KAMEI,LHOUSINO,ESTHER

Advocate for the Respondent : KROVI TSUKRU,

B E F O R E

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

For the Petitioner : Mr. A Zhimomi

For the Respondent : Mr. B P Bora

Date of Hearing : 27.11.2025

Date of Judgment : 27.02.2026

JUDGMENT AND ORDER (CAV)

Heard Mr. A Zhimomi, learned counsel for the petitioner and Mr. B P Bora, learned counsel for the respondent Bank.

2. The petitioner in the present proceedings has assailed the order dated 28.03.2025 issued by the Additional District Magistrate, Dimapur, directing the Extra Assistant Commissioner (Revenue), Dimapur, to take possession of the petitioner's property under the provisions of Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter, referred to as the SARFAESI Act). The petitioner has also prayed for interference with the proceedings before the Debt Recovery Tribunal, Guwahati in Original Application No. 235/2018.

3. The facts, in brief, requisite for adjudication of the issues arising in the present writ petition is noticed as follows:

3.1 The petitioner had availed a loan from the Bank of Baroda, Circular Road Branch, Dimapur. The amount of loan availed by the petitioner was Rs.76,50,000/- (Rupees Seventy Six Lakhs Fifty Thousand). The petitioner defaulted in repayment of his installments and accordingly, the respondent No. 1 Bank instituted an original application, being O.A. No. 235/2018

(DRPC No. 3463/2019) before the Debts Recovery Tribunal, Guwahati. The claim made in the said original application against the petitioner was for an amount of Rs.56,28,479/- (Rupees Fifty Six Lakhs Twenty Eight Thousand Four Hundred Seventy Nine). The said original application, as consented to by the parties to the said proceeding, came to be placed before the Lok Adalat. A compromise petition was executed between the petitioner and the bank authorities, which on being placed before the Lok Adalat, the Lok Adalat, vide an order dated 13.05.2023, proceeded to accept the settlement so arrived at between the parties and recorded that a compromise was so arrived at, at an amount of Rs.36,00,000/- (Rupees Thirty Six Lakhs) only, between the petitioner and the respondents. Accordingly, the said original application basing on the compromise arrived at came to be disposed of.

3.2 It is to be noted that the conditions as agreed upon by the parties to the compromise agreement was also noticed in the said order. In terms of the said compromise agreement, the petitioner was to pay an amount of Rs.10,000/- (Rupees Ten Thousand) upfront by 15.05.2023 and thereafter, to clear the remaining amount of Rs.35,90,000/- (Rupees Thirty Five Lakhs Ninety Thousand) within 6 (six) months, w.e.f. 13.05.2023. The petitioner paid an amount of Rs.10,000/- to the bank on 15.05.2023. Thereafter, the petitioner defaulted in making payment of the remaining balance amount of Rs.35,90,000/- (Rupees Thirty Five Lakhs Ninety Thousand) within a period of 6 (six) months, w.e.f. 13.05.2023.

3.3 The default, having occasioned, the bank authorities basing on the conditions set out in the settlement agreement arrived at with the

petitioner, approached the jurisdictional Deputy Commissioner praying for passing of orders, invoking the provisions of Section 14 of the SARFAESI Act, 2002, for taking over the possession of the mortgaged property of the petitioner. Accordingly, the Additional District Magistrate, Dimapur, vide order dated 05.08.2024, invoking the provisions of Section 14 of the SARFAESI Act, 2002 directed the Extra Assistant Commissioner, Dimapur to take over possession of the secured assets and after completing all formalities, to hand over the same to the secured creditor, i.e., the Bank of Baroda. In the said order, it was stipulated that the outstanding loan amount along with accrued interest worked out to Rs.3,82,19,940.33 (Three Crore Eighty Two Lakhs Nineteen Thousand Nine Hundred Forty and Thirty Three paisa).

3.4 The said order, being received by the petitioner, it is projected by the petitioner in the writ petition that the Chief Manager of the Bank of Baroda along with an EAC and another had visited the residence of the petitioner at Eralibill. During the visit, it is projected that the Chief Manager, Bank of Baroda had stated that an amount of Rs.36,00,000/- (Rupees Thirty Six Lakhs) awarded by the Lok Adalat be repaid by the petitioner at the earliest. The petitioner further projects that on a request being made by him and his wife for extension of the period for repayment by 3 (three) months, the bank authorities had advised the petitioner to open a Savings Bank Account in the name of his wife with Bank of Baroda and deposit the said amount within 3 (three) months. It is further projected that on the said amount being deposited, the bank would debit the same towards satisfying the petitioner's debt. The petitioner accepted the said proposal and a bank account in the name of the petitioner's wife

was opened on 06.08.2024. It is further projected that although, there was a slight delay, the petitioner deposited the full amount of Rs.36,00,000/- (Rupees Thirty Six Lakhs) by 11.11.2024. The said aspect of the matter was also brought to the notice of the bank authorities on 17.11.2024 with a further request to debit the said amount towards satisfaction of the loan of the petitioner. Further correspondences were made by the petitioner for closing his loan account by debiting the money from his wife's account, which was opened on 06.08.2024. However, it is projected in the writ petition that the petitioner had received a notice dated 20.12.2024 from the Debts Recovery Tribunal, Guwahati, informing him that OA No. 235/2018 and a connected case would be placed before the Lok Adalat on 21.12.2024.

3.5 It is projected that the petitioner in pursuance to receipt of the said notice had met an officer of the Bank of Baroda at Guwahati and during such meeting, the petitioner was instructed to immediately deposit Rs.5,00,000/- (Rupees Five Lakhs), so as to proceed with further negotiations. The petitioner agreed to the said proposal, however, on not receiving a copy of an order in this connection, the petitioner left Guwahati for Dimapur. Thereafter, the petitioner projects that he received an order dated 28.03.2025 issued by the Additional District Magistrate, Dimapur directing the Extra Assistant Commissioner to take possession of his property on 16.04.2025. It is projected that the said order was so issued invoking the provisions of Section 14 of the SARFAESI Act, 2002, but the notice as mandated under Sub Section (2) of Section 13 of the said Act of 2002, was not received by the petitioner.

3.6 The petitioner by contending that the order dated 13.05.2023, being an order passed by the Lok Adalat on a settlement being arrived at in the matter between the petitioner and the respondent No. 1 Bank with regard to the manner in which the loan availed of the petitioner would now be repaid by him, he submits that the Debts Recovery Tribunal, Guwahati nor the Additional District Magistrate had the jurisdiction to pass any orders in this connection.

Accordingly, the petitioner has instituted the present proceeding with the reliefs, as noticed hereinabove.

4. The learned counsel for the petitioner had made the following submissions:

4.1 The learned counsel for the petitioner, by reiterating the facts noticed hereinabove, has submitted that the matter having been compromised between the petitioner and the respondent No. 1 Bank before the Lok Adalat and such compromise having been accepted by the Lok Adalat vide order dated 13.05.2023, further steps taken in the matter by Debts Recovery Tribunal, Guwahati as well as by the Additional District Magistrate, Dimapur, being in violation of the award of the Lok Adalat, the same is clearly without jurisdiction and would mandate an interference from this Court.

4.2 The learned counsel for the petitioner submits that an award of the Lok Adalat is final and binding on the parties and becomes executable as if it is a decree of a Civil Court. He submits that if any party desires to challenge such an award, it can be done by filing a petition under Article

226 and/or Article 227 of the Constitution and on very limited grounds. He further submits that the award being passed by the Lok Adalat on a compromise being arrived at before it by the parties, the reference Court become functus officio. The award passed by the Lok Adalat being deemed to be a decree of a Civil Court, it would be permissible only to execute the said decree in the manner as contemplated under the provisions of the Court of Civil Procedure.

4.3 The learned counsel for the petitioner with regard to the impugned order dated 28.03.2025, issued by the Additional District Magistrate, invoking the provisions of Section 14 of the SARFAESI Act, 2002, submits that the invocation of the provisions of Rule 14 of the Act of 2002, without complying with the provisions of Section 13 of the Act of 2002 is clearly impermissible and on this count alone, the order dated 28.03.2025, would mandate an interference from this Court.

4.4 In support of his such contention, the learned counsel for the petitioner relies on the decision of the Hon'ble Supreme Court in the case of (i) **State of Punjab and Anr. Vs. Jalour Singh and Ors.** reported in **(2008) 2 SCC 660** and (ii) **Govindan Kutty Menon Vs. C. D. Shahji**, reported in **(2012) 2 SCC 51**.

4.5 In the above premises, the learned counsel for the petitioner submits that the consequential actions taken by the Debts Recovery Tribunal, Guwahati as well as by the respondent No. 1 Bank in the matter, along with order dated 28.03.2025 would mandate an interference from this Court.

5. Per contra, Mr. B P Bora, learned counsel for the respondent Bank has made the following submissions:

5.1 Mr. Bora, submits that after the original application, being O.A. No. 235/2018, was instituted by the respondent No. 1 Bank before the Debts Recovery Tribunal, Guwahati, against the petitioner claiming an outstanding debt of Rs.56,28,479/- (Rupees Fifty Six Lakhs Twenty Eight Thousand Four Hundred Seventy Nine). Recovery proceedings also came to be instituted under the provisions of the SARFAESI Act, 2002 and the procedure mandated for taking possession of the secured assets were also complied with. The matter being placed before the Lok Adalat on 13.05.2023, on a request made by the petitioner, the bank had agreed to accept Rs.36,00,000/- (Rupees Thirty Six Lakhs) as full and final settlement of the entire claim, waiving the balance amount.

5.2 Mr. B P Bora, learned counsel for the respondent Bank submits that in terms of the settlement arrived at by the parties to the proceedings, a compromise deed was executed. The said compromise deed and the conditions attached thereto, were verified by the Presiding Officer of the Lok Adalat.

5.3 Mr. Bora, learned counsel for the respondent Bank by referring to the compromise deed executed between the petitioner and the respondent No. 1 Bank submits that the settlement amount of Rs.36,00,000/- (Rupees Thirty Six Lakhs) was to be paid by the petitioner in the following manner:

(i) Rs.10,000/- (Rupees Ten Thousand) upfront on or

before 15.05.2023.

(ii) Thereafter, the balance amount of Rs.35,90,000/- (Rupees Thirty Five Lakhs Ninety Thousand) was to be paid by the petitioner within a period of 6 (six) months from 13.05.2023, i.e., on or before 12.11.2023.

5.4 Mr. Bora, learned counsel for the respondent Bank has further submitted that the settlement agreement in Clause-4, thereof, had incorporated a condition to the effect that in the event of default of payment of any part of the settled amount and/or part of any installments as stipulated in the said agreement and/or if there is any prejudice to the securities of the respondent No. 1 Bank and/or breach of any terms of settlement, the reliefs and concessions granted to the petitioner, herein, shall stand withdrawn without any further reference to the petitioner and recovery certificate already issued would be executed/recovery proceedings would be restarted/resumed in terms of the recovery certificate issued.

5.5 Mr. Bora, has submitted that a notice under the provisions of Section 13(2) of the SARFAESI Act, was already issued and received by the petitioner. The petitioner, although, had paid an amount of Rs.10,000/- (Rupees Ten Thousand) upfront on 15.05.2023, the installments with regard to the payment of the remaining amount of Rs.35,90,000/- (Rupees Thirty Five Lakhs Ninety Thousand) was not remitted by the petitioner within the time frame as agreed to and incorporated in the said settlement agreement between the petitioner and the respondent No. 1 Bank. He submits that the Lok Adalat in its order

dated 13.05.2023, had only extracted the stipulations made in the compromise deed filed in the proceedings by the parties, thereto. He submits that the petitioner, herein, having defaulted in the repayment of the remaining balance amount, in terms of the provisions of Clause-4 of the said compromise deed, the reliefs and concessions granted to the petitioner by the respondent No. 1 Bank stood withdrawn and the settlement agreement was rendered to be without any force. He submits that the agreement having been rendered null and void on the petitioner not performing his part in the matter, the recovery proceedings, which were initiated, came to be resumed. Accordingly, he submits that the recourse taken by the respondent No. 1 Bank, for taking possession of the secured assets and the issuance of the orders in the matter by the Additional District Magistrate, invoking the provisions of Section 14 of the SARFAESI of 2002 would not mandate any interference, inasmuch as, stipulations in this connection, by the consent of the parties was already incorporated in the compromise agreement.

5.6 Mr. Bora, has submitted that the petitioner in the present proceedings has not alleged that the settlement agreement entered into between him and the respondent No. 1 Bank to have been so arrived at basing on misrepresentation, fraud or under co-hercion or to suffer from any other defect and accordingly, the challenge in the present proceeding to the order dated 28.03.2025 would not mandate an acceptance from this Court.

6. I have heard the learned counsel for the parties and also perused the materials available on record.

- 7.** The facts, noticed hereinabove, are not reiterated herein.
- 8.** At the outset, this Court would consider the contentions raised by the learned counsel for the petitioner that the notice dated 28.03.2025, issued by the Additional District Magistrate, Dimapur, invoking the provisions of Section 14 of the SARFAESI Act, 2002 was clearly impermissible, inasmuch as, the proceedings before the Debts Recovery Tribunal (in short, DRT) instituted by the respondent Bank against the petitioner was disposed of in terms of the settlement agreement arrived at between the parties and submitted before the Lok Adalat. He submits that in the event any grievance arises with regard to the award of the Lok Adalat, the respondent Bank was to institute proceedings before the High Court, inasmuch as, on passing of the award by the Lok Adalat, the reference Court, which in the present case is the Debts Recovery Tribunal was rendered *functus- officio*.
- 9.** To appreciate the said contentions of the petitioner, this Court has perused the Clauses, incorporated in the settlement agreement arrived at between the parties.
- 10.** On a perusal of the same, this Court finds that the said settlement agreement between the parties was arrived at, requiring the petitioner to deposit an amount of Rs.36,00,000/- (Rupees Thirty Six Lakhs) in full and final satisfaction of the entire claim under the Original Application No. 235/2018. The manner of payment of the said amount was also set out in the provisions of the said agreement. The amounts involved were to be repaid by the petitioner within 6 (six) months from 13.05.2023. The said settlement agreement further provides that pending payment of the

settled amount, as per the stipulations made in the agreement, the charge on the securities involved, of the Bank would be continued to be so maintained and the said charge would be permissible to be vacated only after making payment of the full settlement amount in terms of the settlement agreement. In the said settlement agreement in Clause-4, thereof, a stipulation was incorporated as per agreement of the parties with regard to the procedure to be followed, in the event, the petitioner defaulted in payment of the settlement amount in terms of the agreement arrived at in the matter between the parties.

11. Clause-4 of the said settlement agreement, being relevant, is extracted hereinbelow:

"4. That in the event of default of payment of any part of the settled amount and/or part of any installments as stipulated here-in-above and/or if there is any prejudice to the securities of the Applicant Bank and/or breach of any terms of settlement the reliefs and concessions granted to the defendants shall stand withdrawn without any further reference to the defendants and recovery certificate will be executed/ recovery proceedings will be restarted/resumed in terms of the recovery certificate issued."

12. A perusal of the Clause-4 of the said settlement agreement would reveal that the parties had also agreed that in the event, a default is committed by the petitioner with regard to payment of any part of the installments, as stipulated in the agreement and/or if there is any prejudice to the securities of the applicant Bank and/or breach of any terms of settlement, the reliefs and concessions granted to the defendants shall stand withdrawn without any further reference to the defendants and the recovery certificate, already issued, will be executed/recovery

proceedings will be restarted/ resumed in terms of the recovery certificate issued.

13. The said Clause, i.e., Clause-4, having been incorporated in the said settlement agreement with the consent of both the parties involved, the said agreement is equally binding on the parties, thereto. Accordingly, the petitioner is also bound by all the terms and conditions as incorporated in the said settlement agreement.

14. This Court notices that the petitioner in the present proceeding has not raised any grievance with regard to the execution of the said settlement agreement and has not contended that the said agreement was so executed by the petitioner basing on any misrepresentation made to him by the respondent Bank and or was so executed under co-hercion. The petitioner has also not alleged of existence of any fraud in execution of the said agreement. Accordingly, the said agreement, being binding on the parties and the agreement having also provided for the procedure to be followed in the event, the petitioner defaults in making the payment of the settlement amount in terms of the said agreement, the provisions of Clause-4 would also be equally binding on the petitioner and on a default committed by him in the matter, the provisions of Clause-4 would come into effect and the same having permitted the Bank authorities to resume the recovery proceedings in terms of the recovery certificate already issued in the matter, the respondent Bank is found to have approached the District authorities praying for invocation of the provisions of Section 14 of the SARFAESI Act for taking possession of the securities involved in the matter.

15. Having noticed the above position, this Court also would observe that the order passed by the Lok Adalat dated 13.05.2023 is not found to be an order passed after an adjudicatory process carried out in the matter, but is an order only reproducing the settlement agreement arrived at in the matter between the parties and in the order, the provisions of Clause-4 of the settlement agreement was also noticed.

16. Accordingly, the order dated 13.05.2023 is to be deemed to be an order passed by a Lok Adalat, basing on the settlement arrived at between the parties.

17. In view of the above conclusions reached by this Court, the award passed by the Lok Adalat, which only incorporates the settlement arrived at between the parties, this Court is of the considered view that on a default, being committed by the petitioner, in terms of the provisions of Clause-4 of the settlement agreement, noticed in the award of the Lok Adalat, it was open to the respondent Bank to initiate appropriate proceedings for recovery of its dues by taking forward the recovery proceedings instituted under the SARFAESI Act, which is found to have been kept in abeyance only in view of the settlement arrived at between the parties before the Lok Adalat.

18. The decisions relied upon by the learned counsel for the petitioner pertaining to the manner in which an award of the Lok Adalat is to be so construed, has been perused by this Court and this Court finds that the said decisions relied upon would not advance the case of the petitioner and accordingly, a detailed discussion, thereon, is not made in the present order.

19. Having drawn the above conclusions, this Court would now examine as to whether the present writ petition was maintainable by the petitioner, assailing an action taken by the respondent Bank under the provisions of the SARFAESI Act.

20. It is a settled position of law, which is apparent from the decisions of the Hon'ble Supreme Court, that in the event the petitioner had any tangible grievance against the notice issued under Section 14 of the SARFAESI Act, 2002, it was permissible for him to avail his remedies before the jurisdictional DRT by instituting an application, invoking the provisions of Section 17(1). The Tribunal as well as the Appellate Tribunal are empowered to pass interim orders under Sections 17 and 18 and are required to decide the matters within a fixed time schedule. Accordingly, it is a settled position of law that the remedies available to an aggrieved person under the SARFAESI Act are both expeditious and effective.

21. In view of the efficacious and effective alternative remedy available to the petitioner, this Court would be cautious to entertain a petition under Article 226 of the Constitution of India and the said position applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of Banks and other financial institutions.

22. Accordingly, this Court is of the considered view that the present writ petition is not to be considered by this Court at the first instance and the petitioner ought to have moved before the DRT, if he had any tangible grievance in the matter.

23. In view of the above conclusions reached by this Court, this Court is of the considered view that the grounds urged by the petitioner for assailing the impugned order dated 28.03.2025, issued by the Additional District Magistrate, Dimapur, invoking the provisions of Section 14 of the SARFAESI Act, would not mandate an acceptance by this Court.

24. Accordingly, the present writ petition is held to be devoid of any merit and the same consequently stands dismissed. However, there would be no order as to cost.

JUDGE

Comparing Assistant