

GAHC040009872024



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

Case No. : WP(C)/316/2024

Tai Tayu
Son of Tai Sakap, resident of TT Apartment, D Section, Naharlagun, PO and PS
Kamin, Papumpare District, Arunachal Pradesh 791110

VERSUS

The State Bank of India and 2 Ors
represented by the Branch Manager, Nirjuli Branch, Arunachal Pradesh, Papumpare
District, Arunachal Pradesh 791109 2:The Authorised Officer

Age: 0

Occupation :

Stressed Assets Management Branch

MRD Road

Bamunimaidan

Guwahati 781021

District Kamrup(M)

Assam

3:The Assistant General Manager

Age: 0

Occupation :

State Bank of India

Bamunimaidan Branch

Guwahati 781021

District Kamrup (M)

Assa

Advocate for the Petitioner : P Chakraborty, 2 Anita Das

Advocate for the Respondent : H R Obing, S Rahman,S Dutta,1 M Laling,Bullo Taka

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 20.09.2024

Heard Ms. P. Chakraborty, learned counsel for the petitioner and Mr. S. Dutta, learned counsel for the respondent-bank.

2. The learned counsel for the petitioner has submitted that as per instructions received by her, there are certain fixed deposits of the petitioner which has been encashed by the respondent bank, which has not disclosed in the statement of accounts.

3. The learned counsel for the respondent-bank has vehemently opposed the said statement and it is submitted that the statement of accounts of the petitioner is enclosed along with his affidavit-in-opposition which includes transaction from the year 2013. He has submitted that the debit entries in the account clearly discloses the amount adjusted on encashment, which is shown as recovery without indicating fixed deposit account numbers.

4. It is also submitted that the recovery proceeding is pending before the DRT, Guwahati and if the petitioner has any document to show that the adjustment of his fixed deposit has not been reflected in the statement of accounts, the petitioner can produce such document before the Recovery Officer, DRT and the Recovery Officer would definitely look into the grievance. He also submits that any other grievance of the petitioner of not reflecting recoveries in the petitioner's statement of account can also be verified by the recovery officer.

5. It is submitted that a huge dues is to be recovered from the petitioner and therefore, he has placed reliance on the case of *PHR Invent*

Educational Society v. UCO Bank & Ors., 2024 INSC 297 decided by a Three-Judge Bench of the Supreme Court of India, wherein serious concern has been expressed on the entertaining of writ petitions under Article 226 of the Constitution of India by ignoring the availability of statutory remedies under the Recovery of Debts and Bankruptcy Act, 1993 and SERFAESI Act, 2002. Accordingly, it is submitted that this writ petition would not be maintainable.

6. Be that as it may, the Court is inclined to provide that notwithstanding the pendency of this writ petition, if the petitioner has any grievance regarding non-reflecting of adjustment of the petitioner's fixed deposits or any other recoveries made by the bank in the petitioner's statement of accounts, the petitioner would move the Recovery Officer, Debts Recovery Tribunal to bring the said fact to its notice and we hope and trust that the Recovery Officer, on receipt of such information shall carefully scrutinize the grievance of the petitioner.

7. The pendency of this writ petition shall not be a bar for the Recovery Officer, Debt Recovery Tribunal to proceed in the matter. However, as indicated in the previous order of this Court dated 14.08.2024, the liberty granted to the petitioner to make a mention would still be available to the petitioner.

8. List on 24.10.2024.

JUDGE

Comparing Assistant