

WP(C) 3791/2016

BEFORE

HON'BLE MR. JUSTICE HRISHIKESH ROY

The petitioner was sanctioned loan by the Goalpara Branch of the UCO Bank and since loan repayment was irregular, the Bank initiated a recovery proceeding under the Recovery of Debts Due to Banks & Financial Institutions Act, 1993 (hereinafter referred to as the Recovery Act). At some stage, one settlement offer was made, as can be seen from the Bank's letter dated 2.2.2012 (Annexure-3), whereby the borrower was required to pay Rs.6 lakhs and stipulation for the upfront payment and installments were mentioned.

However the borrower defaulted in adhering to the repayment schedule and therefore the proceeding in the O.A. No.150/2011 was finalized by the Debt Recovery Tribunal (DRT), Guwahati, through the judgment dated 30.9.2013 (Annexure-7), whereby, recovery certificate for a sum of Rs.10,09,516/- was granted to the Bank and the defendants were jointly made liable for the certificate amount and future interest @14% p.a., w.e.f. 1.7.2011.

As the certificate debtors failed to pay the certified amount, the Bank took recourse to the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act') and issued the possession notice on 9.2.2015 (Annexure-10), under Section 13 in respect of the mortgaged property, at village Baladmari Chahbagan, Circle Bali jana, District Goalpara, standing in the name of Md. Jahangir Ali.

Mr. SN Tamuli, learned counsel submits that the petitioner is willing to pay the amount quantified under the settlement letter dated 2.2.2012 (Annexure-3) and since he has already paid about Rs.2.25 lakh to the Bank, the borrower should be given time to repay the balance of the quantified Rs.6 lakhs.

But what is seen here is that the certificate issued by the DRT on 30.9.2013 (Annexure-7), is for a much larger sum and it is also noticed that the onetime settlement failed for the borrower's default. Now when the proceeding under the SARFAESI Act has been initiated, intervention of the Writ Court would hardly be justified to enforce a settlement arrived at on 2.2.2012. Thus finding the petition to be devoid of merit, the same is dismissed.