

GAHC010123232025



2026:GAU-AS:9071-DB

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

Case No. : WP(C)/3252/2025

L. SARAT KUMAR SINGHA AND ANR
S/O- MONI SINGHA, R/O- DAKSHIN MOHANPUR, NEAR SHIB MANDIR,
P.O. GOBINDANAGAR, P.S. SONAI, SILCHAR, CACHAR, PIN- 788119.

2: L. SUMITA DEVI
W/O- SRI SARAT KUMAR SINGHA R/O- DAKSHIN MOHANPUR NEAR SHIB
MANDIR P.O. GOBINDANAGAR P.S. SONAI SILCHAR CACHAR PIN- 788119

VERSUS

1: THE STATE OF ASSAM AND 3 ORS. REPRESENTED BY THE DISTRICT
COMMISSIONER, CACHAR, SILCHAR, MAGISTRACY AND
ADMINISTRATION BRANCH.

2:THE MANAGER SBFC FINANCE LIMITED REGISTERED OFFICE- UNIT
NO. 103 1ST FLOOR C AND B SQUARE SANGAM COMPLEX CTS NO. 95A
127 ANDHERI KURLA ROAD VILL.- CHUKALA ANDHERI (EAST) MUMBAI-
400059.

3:THE BRANCH MANAGER SBFC FINANCE LTD. ULUBARI OFFICE
GUWAHATI DIST. KAMRUP METRO ASSAM PIN- 781007.

4:THE BRANCH MANAGER STATE BANK OF INDIA
SILCHAR CACHAR ASSAM PIN- 788001

For the Petitioner(s) : Mr. S. Barman, Advocate.

For the Respondent(s) : Ms. U. Sharma, Junior Govt. Advocate, Assam for respondent No.1.
: Mr. I.S. Mazumdar, Advocate for respondent Nos.2 & 3.
: Mr. H. Buragohain, Advocate for respondent No.4.

- B E F O R E -
HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

23.06.2026

(Ashutosh Kumar, CJ)

We have heard Mr. S. Barman, learned Advocate for the petitioners; Ms. U. Sharma, learned Junior Government Advocate, Assam for respondent No.1; Mr. I.S. Mazumdar, learned Advocate for respondent Nos.2 & 3 and Mr. H. Buragohain, learned Advocate for respondent No.4.

The present petition has been filed against the decision of the State Bank of India/respondent No.4 in not permitting the petitioner No.1 to access his Savings Bank Account with the State Bank of India on the premise of an award passed by a private Arbitrator directing the State Bank of India to put a lien over such account.

The petitioners herein are husband and wife, who had availed of a loan of ₹ 21,00,000/- (Rupees Twenty-One Lakhs) from the SBFC Finance Limited, a non-banking financial institution. The petitioners had mortgaged a house as collateral surety against the loan, which went bad.

The petitioners allege that there was total non-application of mind in serving them notice by the Bank by asking them to pay the loan amount of ₹ 30,00,000/- (Rupees Thirty Lakhs). The Bank claims that it was an error, which has been amended.

Be that as it may, when the loan taken by the petitioners could not be repaid, the creditor/SBFC Finance Limited invoked the provisions under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) and a notice

under Section 13(2) of the SARFAESI Act was issued to the petitioners demanding the principal amount along with interest, which amount came to ₹ 22,49,201/- (Rupees Twenty Two Lakhs Forty Nine Thousand and Two Hundred One). It further appears from the records that the petitioner No.1 was also served with a possession notice of the mortgaged property.

Mr. Barman, learned Advocate for the petitioners submits that the mortgaged property, as on date, is in the possession of the SBFC Finance Limited, which statement has not been rebutted by anyone of the respondents.

There is another disclosure made by the petitioners that the valuation of the mortgaged property, in all its probability, would cover the loan amount as also the interest, which may have accrued over a period of time.

Notwithstanding this, the petitioners lament that the salary account of the petitioner No.1 with the State Bank of India has been blocked, which has resulted in great hardship to the petitioners as a family.

For the present, we have not adverted ourselves to the discrepancies in the loan documentation or the amount, which is due to the creditor/SBFC Finance Limited.

The question before this Court is whether a creditor can pursue execution of an arbitral award, while proceedings under the SARFAESI Act are pending.

The other issue, which would be required to be answered is whether freezing of the savings/salary account of the petitioner No.1 can be held to be justified when the secured asset has already been taken

possession of and is likely sufficient to satisfy the debt.

We have given our anxious consideration to the issues.

A proceeding under the SARFAESI Act and enforcement of an arbitral award are generally mutually exclusive. The principle is that a creditor may resort to multiple remedies available for clawing back the money, unless it is barred by law. However, the recovery proceedings ought not to result in unjust enrichment or recovery exceeding the amount already due. Courts exercising writ jurisdiction would be justified in interfering when coercive measures are disproportionate, particularly, when the secured asset is already under the control of the creditor and the value of the asset, for all practical purposes, would be sufficient to satisfy the outstanding dues.

We cannot be oblivious to the fact that freezing of the salary/ Savings Bank Account of the petitioner No.1 can cause undue hardship to the borrower.

Under the aforesaid circumstances, we dispose off this writ petition with a direction to the State Bank of India to de-freeze the salary/ Savings Bank Account of the petitioner No.1, but subject to the secured property remaining available for sale with the creditor/SBFC Finance Limited and the liberty to the creditor to seek further recovery, if after the sale of the secured asset, any balance amount remains unpaid.

We say so for the reason that the creditor/SBFC Finance Limited shall have the right to continue the recovery process but with the secured property in possession of the creditor, freezing of an account would definitely be excessive and unnecessary.

We thus conclude that the Savings Account of the petitioner No.1

be de-frozen and he be allowed to have the access to the same.

With the afore-noted observation and direction, the writ petition stands disposed off.

JUDGE

CHIEF JUSTICE

Comparing Assistant