

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.663 of 2022

Sarita Agarwalla

....

Petitioner

Mr. S.D. Das, Senior Advocate with
Mr. H. Mohanty, Advocate

-versus-

***Branch Manager, Union
Bank of India, (E-
Corporation Bank),
Karanjia Branch, District-
Mayurbhanj and Others***

....

Opp. Parties

Mr. Sitanshu Kumar Dey,
Advocate for the Bank

**CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN**

**ORDER (ORAL)
21.04.2022**

Order No.

- 03.** **1.** This matter is taken up by virtual/physical mode.
- 2.** Petitioner is the widow of defaulting borrower-Anil Kumar Agarwalla, who had defaulted in servicing the cash credit account for a sum of ₹90 lakhs availed in the year 2015/16 from the erstwhile Corporation Bank (now Union Bank of India), Karanjia Branch, Mayurbhanj. The loan account was classified as NPA on 31.07.2020 after the said Anil Kumar Agarwalla had died on 01.07.2019 leaving behind his legal heirs including the Petitioner-wife. The recovery proceedings under the SARFAESI Act, 2002 (in short “the Act, 2002”) were initiated by issuance of a demand notice

dated 10.08.2020 under Section 13(2) of the Act, 2002 and symbolic possession of the secured assets (three mortgaged properties) was assumed vide notice dated 11.08.2021 under Section 13 (4) of the Act, 2002.

3. Subsequently, the three mortgaged properties were put to auction vide sale notice dated 18.12.2021 fixing the auction sale for 20.01.2022.

4. By filing the present writ petition challenge has laid to the aforesaid e-auction notice dated 18.12.2021 (Annexure-6 series).

5. The Bank has filed a short affidavit dated 29.01.2022 of Shri Swadesh Das, Branch Manager indicating that out of the three equitable mortgages, the defaulting borrower had fraudulently sold off two properties without seeking the consent of the Bank, which fact has not been disclosed by the borrowers. It is further submitted that the e-auction fixed for 20.01.2022 has since been failed due to non-participation of any bidder.

6. Learned counsel for the Bank further points out that the properties are being put to auction again on 29.04.2022.

7. At this stage, learned counsel for the Petitioner prays for permission to withdraw the writ petition so as

to file a fresh petition, if so advised, with proper and better particulars.

8. The writ petition is accordingly dismissed as withdrawn with the aforesaid liberty.

**(Jaswant Singh)
Judge**

**(M.S. Raman)
Judge**

April 21st 2022
Cuttack

AKK

