IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14264 of 2009

Biswanath Panda	....	***Petitioner***
		Mr. S.K. Pradhan, Advocate

-versus-

Chairman, Odisha Gramya Bank and another	....	***Opposite Parties***
		Mr. S.K. Nanda, Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAIK

ORDER
08.02.2022

Order No.

04. 1. There is a fundamental dispute on whether the Petitioner falls within the meaning of the expression 'Small Farmer' as contained in the Agricultural Debt Waiver and Debt Relief Scheme (hereafter 'the Scheme').

2. The background facts are that the Petitioner availed a loan in the sum of Rs.5,00,000/- from the Cuttack Gramya Bank (now Odisha Gramya Bank) for agricultural activity on 6th June, 2005. It was a term loan to be repaid in 10 half-yearly instalments. The standing crops were hypothecated and a charge was created on certain assets as described in Schedule-III of the Loan Agreement.

3. The Petitioner defaulted in repayment of the loan. As of 10th January 2007, he had paid only Rs.50,000/-.

4. The Petitioner claims that since he is a 'Small Farmer', there should be a total waiver of the balance amount. In paragraph-9

and 10 of the counter affidavit filed by the Opposite Parties-Bank, it has been averred as under:

> "9. That according to the Explanation No.3, i.e. "in the case of a farmer who has obtained investment credit of allied activities where the principal loan amount does not exceed Rs.50,000/- he would be classified as small and marginal farmer and where the principal amount exceeds Rs.50,000/-, he would be classified as "Other farmer", irrespective in both cases of size and land holding, if any", the petitioner comes in the category of "Other Farmer". Hence the petitioner does not come under in the category of "Small or Marginal Farmer" to be eligible to waiver of entire amount as per clause 5.1 of the Scheme at annexure-1 of the Writ Application.
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> 10. That it is humbly submitted that the petitioner coming in the category of "Other Farmers" was entitled for debt relief of overdue amount up to March 31, 2007 and remaining unpaid February 29, 2008 and accordingly an amount of Rs.3,48,765/- (Rupees Three Lakh Forty Eight Thousand and Seven Hundred Sixty Five) as per the calculation below was credited on 27.06.2008:
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> **OVERDUE AS ON 31.12.2007 (Rs.)**

PRINCIPAL	INTEREST	TOTAL
222222	115023	237245

> **OVERDUE UNPAID TILL ON 29.02.2008 (Rs.)**

PRINCIPAL	INTEREST	TOTAL
222222	126543	348765"

5. Learned counsel appearing for Petitioner however disputes the above averment. He maintains that the Petitioner is a 'Small Farmer' for the purposes of the Scheme and therefore, there should be a total waiver.

6. If indeed the Petitioner availed a loan in excess of Rs.50,000/-, then in terms of Explanation 3 to the Scheme he cannot be considered to be a 'Small Farmer', but only as 'other farmer'. It is seen from the document placed on record by the Opposite Parties-Bank that the Petitioner has already got a partial waiver of Rs.3,48,765/- which stands duly credited in his account. It is only the balance amount that is now due. As on 16th September 2021 it was Rs.9,87,830/- and as on 8th December 2021 it was Rs.10,58,193/-. The Bank has already initiated proceedings under Section 13 (2) of the SARFAESI Act, 2002.

7. In the circumstances, leaving it open to the Petitioner to approach the Debt Recovery Tribunal for appropriate relief under the SARFAESI Act, this Court declines to interfere. The writ petition is accordingly dismissed. The pending I.A. is also dismissed.

8. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Guin