IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.2028 of 2022

Himansu Bhusan Prusty .... ***Petitioner***

None

-versus-

Chief Manager Bank & Another .... ***Opposite Parties***

Mr. K.M. H. Niamati, Advocate for Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)

Order No.	**24.09.2022**
06.	This matter is taken up by virtual/physical mode.

1. The Petitioner is a defaulting borrower in a housing loan for a sum of Rs.13.00 lakhs and overdraft facilities for Rs. 6.00 lakhs availed from Bank of Baroda, Nahaka By Pass-Opposite Party No.2 in the year 2016 and 2018 respectively. Both the loan accounts were declared as NPA on 29th October, 2020 due to non-servicing of the accounts. A demand notice was issued on 15th September, 2021 recalling outstanding amount of Rs.17,87,576/-. The symbolic possession of the collateral security is stated to have been assumed by issuance of notice under Section 13(4) of the SARFAESI Act, 2002.

2. By filing the present petition, challenge has been laid to the declaration of the accounts as NPA and issuance of the possession notice, with further prayer to direct the Bank to settle the account under OTS.

3. Counsel for the Bank submits that the accounts were classified as NPA in terms of the Reserve Bank of India circular which provides for continued default of three months, the loan accounts were to be classified as NPA on auto generated portal. As regards the symbolic possession, the same is in view of the statutory provision and scheme of the SARFAESI Act, 2002. He further submits that it is well settled that no direction under Article 226 of the Constitution can be issued to the Bank for settling the amount in the absence of special OTS floated by the Bank.

4. In the present case, the Petitioner is free to approach the Bank for settlement under the regular OTS by furnishing viable offer to the satisfaction by the Bank, which the Petitioner has failed to do till now. That apart, counsel for the Bank submits that since the last three dates, none has appeared on behalf of the Petitioner and even today, none has entered appearance thereby leading to the inevitable inference that the Petitioner is not even interested to pursue the present petition.

5. In view of the above, the writ petition is liable to be dismissed. Ordered accordingly.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Aks September 24, 2022 Cuttack