

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.2306 of 2021

Narayan Sahu and another *Petitioners*

Mr. A.K. Sahoo, Advocate

-versus-

State of Odisha and Others Opp. Parties

Mr. B.N. Udgata, Advocate for the Bank

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M. S. RAMAN

ORDER (Oral)

17.02.2022

Order No.

- 08.** 1. This matter is taken up through virtual/physical mode.
2. The prayer in the instant petition filed by the defaulting borrower is to issue a direction to the Canara Bank, Link Road Branch, Cuttack, to settle the outstanding liabilities by way of an amicable settlement under an OTS Scheme.
3. Learned counsel for the parties heard.
4. It is an admitted case that the petitioners had availed a housing loan for a sum of Rs.10,00,000/- on 21st of October, 2016. Due to non-payment of more than three monthly installments, the account was declared NPA on 30th January, 2019. Subsequently a demand notice under Section 13(2) of the SARFAESI Act, 2002 was issued on

31st January, 2019 recalling a sum of Rs.8,27,062/-. The symbolic possession of the mortgaged residential house was assumed on 25th April, 2019 by issuance of notice under Section 13(4) of the SARFAESI Act, 2002. The sale notice was issued on 12th October, 2021 fixing the auction date on 15th November, 2021 for an outstanding liability of Rs.11,62,000/- approximately due as on 15th November, 2021.

5. On the willingness of the petitioners to clear the entire outstanding, this Court on 12th November, 2011 passed the following Order:-

“1. This matter is taken up by virtual/physical mode.

2. Learned counsel for the petitioners is heard.

3. The borrower is before this Court with the mercy plea for saving his sole residential property fixed for auction sale on 15.11.2021 for an outstanding liability of Rs.11,61,931/- as on 12.10.2021, the petitioners are stated to be ready and willing to liquidate the account by depositing the entire amount provided some reasonable time is granted.

4. Issue notice for 10.12.2021.

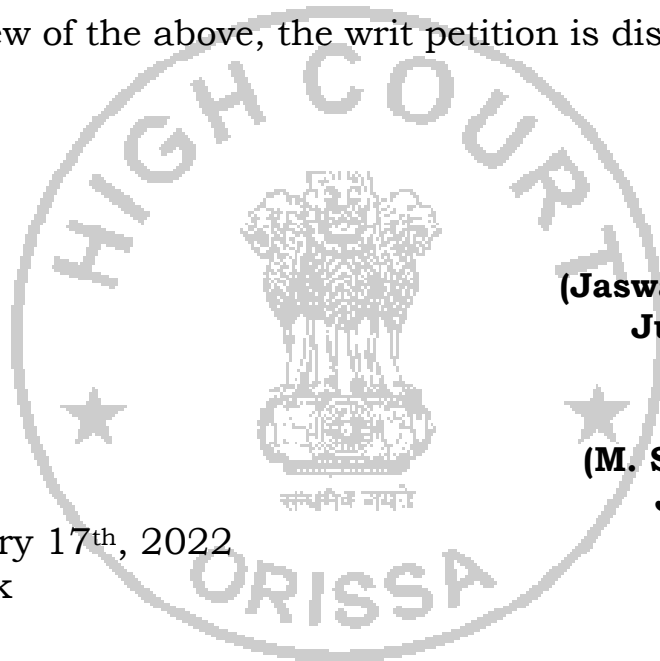
5. In case, the petitioners deposit a sum of Rs.3 lakhs on or before 15.11.2021, to be kept in no lien account, successful bid, if any shall not be confirmed without leave of this Court.

6. It is clarified that if the amount is not deposited there shall be no legal impediment for the Bank to proceed in accordance with law.

7. List on 10.12.2021.”

6. No doubt the petitioner deposited the aforesaid amount of Rs.3,00,000/- but have failed to file an undertaking, which otherwise pales into insignificance as three months by today have lapsed and the petitioners have not deposited even a single penny after the initial deposit of Rs. 3,00,000/-. In such a situation, we cannot come to rescue of the petitioners anymore.

7. In view of the above, the writ petition is dismissed.



(Jaswant Singh)
Judge

(M. S. Raman)
Judge

February 17th, 2022
Cuttack

Basudev