

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.3007 of 2022

Malaya Kumar Das

....

Petitioner

Mr. Sidhartha Mishra. Advocate

-versus-

***Union of Bank of India, Nayapalli
Branch & Another***

....

Opp.Parties

Mr. Tuna Sahu, Advocate
(for Bank)

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
24.02.2022

Order No.

- 01.** 1. This matter is taken up by virtual/physical mode.
2. The Petitioner is the borrower of housing loan for sum of Rs.74,24,000/- availed for purchasing a flat, from Union Bank of India, Nayapalli Branch, Bhubaneswar on 13th June, 2017. Due to defaults in payment of installments, the loan account was declared NPA on 2nd February, 2019. A demand notice under 13(2) of the SARFAESI Act, 2002 (for short, 'the Act, 2002') stood issued on 6th July, 2019 recalling a sum of Rs.78,23,359/-+ interest + charges. Thereafter, symbolic possession was assumed on 25th November, 2019 under section 13(4) of the Act, 2002. The Petitioner thereafter filed the S.A. before the DRT, Cuttack assailing the notice issued under the Act, 2002.

P.T.O.

3. In the present petition, the prayer is for issuance of a direction to the Bank for accepting the OTS proposal. At the time of hearing, counsel for the Petitioner realizes that no such direction can be issued in law. He has made an alternative prayer for consideration of the sale of the mortgaged residential house by way of private tripartite agreement permitted under Rule 8 (8) of the SARFESI Rules, 2002 to liquidate the entire outstanding liability which as on today, roughly around Rs. 83.00 lakhs.

4. In response, counsel for the Bank has no objection to such recourse provided the outstanding liabilities of the Bank are duly cleared. He submits that in case the Petitioner along with the buyer approaches the Bank, the Bank would consider executing tripartite agreement for execution of the sale deed to meet the outstanding liability.

5. In view of the aforesaid, the writ petition is disposed of with liberty to the Petitioner to adopt the aforesaid course in accordance with law.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge