

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No. 3313 of 2022

Dibyajyoti Mishra

....

Petitioner

Mr. Arun Kumar Das, Advocate

-versus-

Union Bank of India & Others

....

Opposite Parties

Mr. Sandeep Mishra, Advocate on
behalf of Tuna Sahu, Advocate
for Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER(Oral)
14.03.2022

Order No.

- 02.**
- 1.** This matter is taken up by virtual/physical mode.
 - 2.** The Petitioner is defaulting borrower of cash credit loan of Rs.12.00 lakhs availed from Union Bank of India, Kunjabanagarh Branch, Daspalla in the district of Nayagarh. Due to financial indiscipline, the loan account was declared NPA on 31st March, 2021 and the demand notice dated 23rd April, 2021 was issued U/s 13(2) of the SARFAESI Act, 2002 recalling the outstanding liability of Rs.13,28,171.57 as on 31st March, 2021. Subsequently symbolic possession was assumed vide notice dated 10th December, 2021 issued U/s 13(4) of the SARFAESI Act, 2002.
 - 3.** By filing the present petition challenge has been laid to the possession notice dated 10th December, 2021 and the subsequent E-

P.T.O.

auction sale notice dated 15th January, 2022 fixing the date of auction sale of the collateral security on 17th February, 2022.

4. Upon willingness of the Petitioner to clear the outstanding liability, this Court on 15th February, 2022 passed the following order:-

“1.It is stated that the auction of the residential house for an outstanding liability in the Cash Credit Limit account for a sum of rupees around Rs. 15 lakhs, as on today, is fixed for 17.02.2022. Counsel for the Petitioner submits that his client is prepared to deposit a substantial amount as upfront payment and the balance within some reasonable time.

2. Mr. Tuna Sahu, Panel Advocate, who is on advance notice for the Bank is not averse to such a proposal.

3. Issue notice for 14.03.2022.

Mr. Tuna Sahu, Panel Advocate for the Bank appears and waives off notice on behalf of Opposite Parties/Bank.

Let required number of copies of the writ petition be furnished to Mr. Tuna Sahu by the next date.

4. In the event of the Petitioner depositing a sum of Rs. 8 lakhs on or before 17.02.2022, the successful bid, if any, shall not be confirmed without leave of the Court. It is further subject to the Petitioner filing an undertaking that he would deposit the remaining balance along with interest and other charges within next four months.”

5. At the time of hearing today, counsel for the Petitioner states that he has no instruction in this matter, whereas the counsel for the Bank states that the aforesaid interim directions have not been complied with and for lack of any intending bidders, the auction for 17th February, 2022 has failed. It is also evident that no legal basis is

available nor pleaded to maintain challenge to the notice assuming symbolic possession.

6. Keeping in view, the aforesaid averments, it is understandable that the Petitioner has chosen not to pursue the present writ.

7. Accordingly, the present writ petition is dismissed.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Laxmikant

March 14th, 2022
Cuttack

