IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P (C) No. 3978 of 2022

Ashok Kumar Mohanty .... ***Petitioner***

Mr. R.P. Bhagat, Advocate

-versus-

IDBI Bank Ltd., Lewis Road, Bhubaneswar .... ***Opposite Party***

Mr. P. V. Balakrishna, Advocate for Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
30.09.2022

Order No.

06. This matter is taken up by virtual/physical mode.

1. Housing loan facility to the tune of Rs.30,50,746/- was extended to the Petitioner by the IDBI Bank Ltd., Unit-9, Janpath Bhubaneswar. Having defaulted in repayment, the loan account was classified as NPA on 8th January, 2018, leading to issuance of notice U/s 13(2) of the SARFAESI Act, 2002 on 18th December, 2019, recalling amount of Rs.29,42,849/- outstanding as on 10th September, 2018. Non-response to said notice led to assumption of symbolic possession of the secured asset by issuance of notice dated 4th March, 2021. An intimation specifying outstanding dues of Rs.29,42,849/- was issued for liquidating the same and it was also cautioned in the event of failure to pay the outstanding dues, the secured asset would be put to auction sale.

2. This Court vide order dated 16th February, 2022, while issuing notice, as an interim measure directed as follows:-

"Till next date, the auction, if any, shall be kept in abeyance."

3. Perusal of impugned intimation dated 8th December, 2021 vide Annexure-1 would reveal that no date of auction sale has been fixed. It is mere communication granting an opportunity to the Petitioner to make repayment of the outstanding loan amount.

4. On 18th April, 2022, counter affidavit has come to be filed on behalf of the Opposite Party-Bank mentioning therein that the outstanding loan amount stood at near about Rs.48.00 lakhs.

5. On the resumed hearing today, Mr. P.V. Balakrishna, Counsel for the Bank submitted that the impugned Annexure-1 is an intimation for liquidating the amount outstanding and in the event of failure, the amount of loan was available to be recovered by way of putting the secured asset for auction sale. He further submitted that since no date of sale has been fixed, no cause of action survives for keeping this writ petition pending.

6. At this stage, Mr. R.P. Bhagat, counsel for the Petitioner submitted that the Petitioner is agreeable to pursue its remedy before the Bank either for upgrading the account or settle the amount amicably.

7. In such view of the matter, the writ petition is dismissed with liberty to the Petitioner to approach the Bank to seek appropriate relief.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Laxmikant

September 30, 2022
Cuttack