

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.4171 of 2022

Siba Kumar Martha

....

Petitioner

Mr. H.N. Mohapatra, Advocate

-versus-

***Authorized Officer for Aditya
Birla Housing Finance Ltd.,
and Others***

....

Opp. Parties

Mr. Rama Chandra Panigrahi, Advocate

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M.S. RAMAN

ORDER (Oral)

17.05.2022

Order No.

- 04.**
- 1.** This matter is taken up through virtual/physical mode.
 - 2.** The petitioner is stated to have availed two loans (LAP) for amounts of Rs.25 lakhs and Rs.4.5 lakhs from the Aditya Birla Housing Finance Ltd. Due to default in payment of installments, both the loan accounts have been declared NPA on 31.10.2021. Demand notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act, 2002") was issued on 22.11.2021 (Annexure-9) recalling the outstanding liability of Rs.31,02,638/- due as on that date.
 - 3.** By filing the present petition, challenge has been laid to the aforesaid demand notice dated 22.11.2021 (Annexure-9). Although, the writ petition simplicitor at that stage is not maintainable, however, upon the willingness of the petitioner to pay the amounts over due

in both the loan accounts, the notice was issued for providing an opportunity for upgrading of the loan accounts to regular accounts.

4. Learned counsel for the Bank points out that apart from deposit of Rs.1.5 lakhs, another sum of around Rs.3.5 lakhs is due for regularizing both the NPA accounts. He further states that the Bank has not received any objections allegedly filed by the petitioner to the demand notice issued under Section 13(2) of the Act, 2002.

5. In response, learned counsel for the petitioner has raised a dispute in respect of the levy of the penal interest etc. Keeping in view the nature of the dispute is sought to be raised and the initial stage of the recovery process, we are not inclined to invoke our writ jurisdiction under Article 226 of the Constitution of India. Accordingly, if so advised, the petitioner is relegated to seek his remedy before the DRT, Cuttack.

6. In view of the above, the writ petition is disposed of with the aforesaid liberty.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

Basudev

May 17th, 2022
Cuttack