

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No. 4305 of 2022

Udayamala Patro

....

Petitioner

Mr. Sarat Chandra Dash, Advocate

-versus-

***The Authorized Officer, Indian
Bank & Others***

....

Opposite Parties

Mr. Manas Acharya,
Advocate for Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
10.10.2022

Order No.

04.

This matter is taken up by virtual/physical mode.

1. M/s. Dwarka Jewellers, a partnership firm (Opposite Party No.3) was sanctioned cash credit facility of Rs.600 lakhs on 21st January, 2013 by Allahabad Bank, Old Station Squire Branch, Cuttack Road, Bhubaneswar (presently known as Indian Bank). The Property of the Petitioner, guarantor, was mortgaged. Due to non-servicing of the loan account, it was classified as NPA on 29th February, 2020. A demand notice under Section 13(2) of the SARFAESI Act, 2002 was issued on 19th May, 2020, recalling an amount of Rs.5,54,24,903/- outstanding as on 19th May, 2020. Non-discharge of said liability led to assumption of symbolic possession on 24th August, 2020 under Section 13(4) of the said Act.

2. The Petitioner, guarantor, is before this Court *inter alia* assailing the auction of property owned by her, notified as Property No.2 in the e-auction notice dated 6th January, 2022 (Annexure-1) on the ground that the reserve price has been fixed as Rs.1,35,00,000/-, whereas as per the Valuation Report dated 8th February, 2022(Annexure-6 series), the Government value of the said property is slated at Rs.1.69 crores.

3. On 23rd March, 2022, when the matter was taken up, counsel for the Petitioner filing a memo drew the attention of the Court that the Petitioner-Udayamala Patro expired on 1st March, 2022. Accordingly, this Court passed the following order:-

*“*** Mr. Dash, counsel for the Petitioner states that the Petitioner has died on 1st March, 2022. Therefore, he prays for time to place on record the death certificate as also an application for impleadment of I.Rs. of the Petitioner.”*

4. At the time of hearing today, Mr. Sarat Chandra Dash, counsel for the Petitioner submitted that as the legal representatives have not come forward to pursue this matter, he is unable to take any step.

5. Perusal of the order dated 11th February, 2022 shows that since Debts Recovery Tribunal, Cuttack was not functioning at the relevant point of time, this writ petition was filed. It is submitted at the Bar that the said Tribunal is now functional. Thus considering nature of challenge being made in the writ petition, the legal representatives are relegated to seek appropriate remedy in accordance with law, if so advised.

6. In view of the aforesaid situation, the writ petition stands dismissed.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Laxmikant

October 10, 2022 Cuttack

