IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.18688 of 2016

Pramod Kumar Santi …. ***Petitioner***

None

-versus-

Authorized Officer-cum-Chief Manager, Bank of Baroda, Cuttack Main Branch, Buxibazar, District-Cuttack and Another …. ***Opp. Parties***

Mr. K.M.H. Niamati, Advocate for the Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
27.07.2022

Order No.

17. **1.** This matter is taken up through hybrid arrangement (virtual/physical mode).

2. The Petitioner is stated to have availed a Cash Credit facility to the tune of Rs.14 Lakhs and a Term Loan for a sum of Rs.46 Lakhs from Bank of Baroda, Baxibazar Branch, Cuttack in the year 2012. Due to financial indiscipline, both the loan accounts were classified as NPA and a Demand Notice under Section 13(2) of the SAFRAESI Act, 2002 (for short, "the Act, 2002") was issued on 16th July, 2015 recalling the outstanding liability of Rs.78,59,513/- due as on 30th

June, 2015. The symbolic possession of the collateral securities/mortgaged properties was assumed on 31st August, 2016 by issuance of a Notice under Section 13(4) of the Act, 2002.

3. The offer of the Petitioner for a One Time Settlement was accepted and sanctioned vide memo dated 31st March, 2016 (Annexure-1), whereby the Petitioner was required to deposit a total amount of Rs.61 Lakhs towards full and final settlement, with Rs.7 Lakhs as upfront and the remaining amount of Rs.54 Lakhs in three equated monthly installments by the end of June, 2016. The sanction was valid for three months, failing which the compromise proposal was condition to be automatically cancelled.

4. Concededly, the Petitioner paid a sum of Rs.10,000/- only against the requirement of paying Rs.7 Lakhs as upfront much less the remaining balance of Rs.54 Lakhs within the stipulated three months. This Court while issuing Notice vide order dated 28th October, 2016 passed the following order:-

> *" Heard learned counsel for the petitioner.*
> *Issue notice.*
> *Mr. Niamati, learned counsel submits that has instruction to appear in this case on behalf of the opposite parties-Bank and undertakes to file Vakalatnama.*
> *Copy of the brief be served on Mr. Niamati, learned counsel for the Bank in course of the day.*
> *List this matter on 4.11.2016 on which date learned counsel for the petitioner shall obtain instruction and file an affidavit before this*

> *Court by the petitioner regarding payment of the settled amount in one installment as well as undertaking to pay the interest for the delayed amount period, if any.*
>
> *Issue urgent certified copy on proper application."*

5. In compliance of the aforesaid order, the Petitioner filed an affidavit dated 4th November, 2016 and Para 5 of the same reads as under:-

> *"That the petitioner undertake to deposit the amount of Rs.7 lac within a period of 15 days and further undertake to square up the entire OTS amount by the end of March 2017 along with the interest towards the late payment for the aforesaid period."*

6. On perusal of the record reveals that the matter was listed on numerous occasions before the Lok Adalat where consistently none appeared for the Petitioner.

Before us, the position on behalf of the Petitioner was the same, when the matter was listed on 5th July, 2022 and adjourned for granting an opportunity to the Petitioner to put in appearance for today.

7. At the time of hearing, yet again none has appeared. Learned counsel for the Bank states that apart from the initial Rs.10,000/-, the Petitioner has not deposited any further amount including in terms of the contents of his aforesaid affidavit. He further states that the total outstanding as on today in both the accounts is Rs.1,40,00,000/- approximately.

8. In view of the aforesaid facts and conduct on the part of the Petitioner, we find no grounds to continue to invoke our equitable jurisdiction under Article 226 of the Constitution.

The Writ Petition is accordingly dismissed.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

AKK

27th July, 2022
Cuttack