IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.5203 of 2022

Urmila Mohanty .... ***Petitioner***

Mr. Ramakanta Mohanty, Senior Advocate along with Ms. Sumitra Mohanty, Advocate

-versus-

Industrial Development Bank of India Limited, Bhubaneswar and others .... ***Opp. Parties***

Mr. B.N. Udgata, Advocate for the Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)

Order No.	**16.03.2022**
03.	1. This matter is taken up through virtual/physical mode.

2. The Petitioner-Urmila Mohanty is one of the guarantors for a Cash Credit facility to the tune of Rs.2.50 crores availed by M/s. Oddessey Spices & Food Processors, partnership firm-Opposite Party No.3. Due to financial indiscipline, the said loan account was declared NPA on 29th July, 2009. The recovery process under the SARFAESI Act, 2002 (in short, 'the Act, 2002') was initiated by issuance of demand notice dated 11th October, 2012 upon the defaulting borrower-partnership firm and guarantors, including the Petitioner. Symbolic possession under Section 13(4) of the Act, 2002 of seven mortgaged properties (of the borrower and guarantors) was assumed on 13th June, 2013.

3. Counsel for the Bank states that two of the mortgaged properties were subsequently sold and as of now five properties including the property of the Petitioner remain to be sold. The physical possession of the property mortgaged by the Petitioner was taken on 17th December, 2021.

4. The Petitioner has challenged the sale notice dated 2nd February, 2022 fixing the date of auction to 4th March, 2022 of the

mortgaged property of the Petitioner. Further prayer is for directing the bank to decide the representation dated 13th January, 2022 (Annexure-2) submitted by the Petitioner for settlement of the loan account qua the property owned by the Petitioner. The plea is primarily based on the premise that the Petitioner, an old lady, has been duped by the borrowers in submitting the deed of guarantee.

5. Mr. Udgata, counsel for the Bank states that on account of no bidder having come forward for the auction on 4th March, 2022, the first prayer of the Petitioner has become infructuous. He submits that even the prayer qua settlement of account as per Annexure-2 has been considered and rejected by the Bank and memo dated 25th January, 2022 issued to the Petitioner for intimation.

6. In view of the aforesaid, counsel for the Petitioner concedes that nothing more survives in the present writ petition. He however submits that his client is not yet received the aforesaid memo dated 25th January, 2022 rejecting the representation as at Annexure-2, for which the Petitioner is free to seek alternative remedy, if so advised, before the DRT concerned.

7. In view of the above, the present writ petition is dismissed as infructuous at this stage.

Issue urgent certified copy as per Rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Jyostna   March 16th, 2022
Cuttack