

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No. 5354 of 2022

Bibhudendra Mishra

....

Petitioner

Mr. Sitanshu Kumar Dey, Advocate

-versus-

***Authorised Officer the Urban
Cooperative Bank Ltd & Others***

....

Opposite Parties

Mr. Asish Kumar Mishra,
Advocate for Bank

**CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN**

ORDER (Oral)

11.05.2022

Order No.

- 04.**
1. This matter is taken up by virtual/physical mode.
 2. The Petitioner is stated to be a co-sharer in the joint property mortgaged, as a collateral security by the borrowers Smt. Susama Mishra and Mr. Ansuman Mishra (Opposite Party Nos.3 & 4). Due to default in payment of instalments of the loan availed by the Opposite Party Nos. 3 & 4, the recovery process under the SARFAESI Act, 2002 was initiated leading to share of the borrowers being put to auction sale on 14th March, 2022.
 3. By filing the present petition, the Petitioner in order to have a meaningful enjoyment of his share of the joint property, stepped in to clear the outstanding liability of the co-sharer-borrowers, and of course without prejudice to his right to recover the same from such co-sharers in accordance with law.

4. At the time of hearing, counsels for the parties are agreed that with the deposit of the required amount, the loan account stands liquidated and 'No Due Certificate' issued to the borrowers.

5. Counsel for the Bank states that the title deeds would be released in accordance with the policy of the Bank. As regards the claim of the Petitioner for refund of excess amount, if any, it is submitted that the Petitioner, not being bound by any contract with the Bank, is not entitled to the same.

6. In view of the above, the writ petition is disposed of as infructuous.

Petitioner is free to avail his remedy in accordance with law.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge