

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.5868 of 2022

Jagdish Padhy and another* *Petitioners

Mr. K. M. H. Niamati, Advocate

-versus-

Authorized Officer, Union* *Opp. Parties

***Bank of India, Regional
Office, At Gayatri Central
Plaza, Tata Benz Square,
Berhampur and another***

Mr. S. K. Ghose, Advocate for Bank

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M. S. RAMAN

ORDER (ORAL)

30.03.2022

Order No.

- 03.** **1.** This matter is taken up by virtual/physical mode.
- 2.** Jagdish Padhy (Petitioner No.1) is a guarantor of three loans availed by M/s. Maa Mangala Cement Works, a proprietorship concern of Gopangan Padhy (Petitioner No.2), who happens to be the wife of Petitioner No.1 as well, from Union Bank of India, Courtpetta Branch, Tata Benz Square, Berhampur.
- 3.** The three accounts were declared as NPA on 31.03.2019 and 31.03.2020 due to financial indiscipline. The demand notice under Section 13(2) of the SARFAESI Act, 2002 was issued on 03.04.2019 and symbolic possession of the two mortgaged properties, offered as collateral security, was assumed on 13.06.2019. The auction sale of the two properties fixed for 18.06.2019 had admittedly failed.

4. By filing the present petition, challenge has been laid to the e-auction notice dated 22.02.2022 fixing the auction sale of both the mortgaged properties on 10.03.2022. The contention is that no clear-cut 15 days personal notice has been served upon the Petitioner before proceeding to auction of the mortgaged properties.

5. Upon notice for today, Mr. S. K. Ghose, counsel for the Bank states that the said auction dated 10.03.2022 has failed for want of any bidder. Hence, the prayer qua that has become infructuous. He further states as regards the challenge to the previous recovery proceedings initiated under the Act, 2002, the Petitioner has already filed S.A. No. 15 of 2021, which is pending.

6. In view of the aforesaid submission, the counsel for the Petitioner prays for permission to withdraw the present writ petition to enable the petitioner to pursue the already pending S.A. No.15 of 2021 before the DRT, Cuttack.

7. Hence, the writ petition is dismissed as withdrawn with the aforesaid liberty.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

March 30th 2022
Cuttack