IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17133 of 2012

Chaitanya Charan Rout .... ***Petitioner***

Mr. Anirudha Sanganeria, Advocate

-versus-

ICICI Bank Ltd. & Another .... ***Opp. Parties***

Mr. S. Sourav, Proxy Counsel, on behalf of Mr. Rajeet Roy, Advocate for the Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. SAHOO

ORDER (Oral)

Order No. **28.10.2022**

05. This matter is taken up through virtual/physical mode.

1. Petitioner is a defaulting borrower in respect of a Housing Loan availed from ICICI Bank for a sum of Rs.3,75,000/- in the month of March 2004 with 180 monthly installments @ Rs.3,430/- per month. Another sum of Rs.2,00,000/- was sanctioned in the same account on 25.10.2004. Due to financial indiscipline, the loan account was declared NPA and a demand notice was issued on 31.05.2012 recalling the outstanding liability of Rs.7,30,055/-. Subsequently symbolic possession of the collateral security/mortgaged property was assumed on 30.08.2012 by issuance of a notice under Section 13 (4) of the SARFAESI Act, 2002 (Annexure-6).

2. The challenge in the present writ petition has been made to the aforesaid notice (Annexure-6).

3. This Court while issuing notice had passed an interim order dated 13.09.2012 in Misc. Case No.14879 of 2012 filed in the main writ petition, which reads as under:

> "As an interim measure, it is directed that if the petitioner deposits a sum of Rs.1,00,000/- (Rupees One lakh only) with the opposite party-Bank on or before 20.9.2012, no coercive action shall be taken against him till the next date."

4. Subsequently the aforesaid order was modified on 16.12.2013, which reads as under:

> "Learned counsel for the petitioner submits that the entire defaulted amount of instalment will be paid within two months from today. On this being made, the petitioner may represent the bank to regularize his account instead of recalling the loan. If such a representation is made, the bank may take a decision on the same within one month from the date of receipt of such representation.
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> Pending consideration of the same, the bank may not take any coercive measures against the petitioner."

5. At the time of hearing, learned counsel for the Bank submits that the petitioner had not complied with the aforesaid interim orders passed by this Court leading the Bank taking recourse to recovery process before the DRT, which has culminated to the stage of execution of a decree passed by the DRT.

6. At this stage, learned counsel for the petitioner states that the writ petition may be dismissed as withdrawn as the petitioner has not come forward to provide any instructions.

7. In view of the above, the writ petition is dismissed as withdrawn.

(Jaswant Singh)
Judge

(M.S. Sahoo)
Judge

AKK October 28th, 2022
Cuttack