

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.6796 of 2022

Ananta Basudeb

....

Petitioner

Mr. Bidyalok Mohapatra, Advocate

-versus-

***Authorized Officer, Punjab
National Bank, Berhampur and
another***

....

Opp. Parties

Mr. M. Balkrishna Rao,
Advocate for the Bank

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M.S. RAMAN

ORDER (Oral)

21.07.2022

Order No.

03.

1. This matter is taken up by virtual/physical mode.
2. The Petitioner is a proprietor of M/s. Koraput Dairy, engaged in the dairy business at Koraput. The Petitioner raised a term loan for a sum of Rs.1,80,00,000/- from Punjab National Bank, Koraput Branch, Koraput on 03.12.2014 for which one property measuring Ac.7.270 decimals owned by the Petitioner and the second property-HIG Flat No.184, Kanan Vihar, Phase-2, Chandrasekharapur, Bhubaneswar owned by the father of the Petitioner, were offered as a collateral security. Due to financial indiscipline, the loan account bearing No.677000AG00000053 was declared as NPA on 31.03.2021. Consequently, the demand notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act, 2002') was issued on 05.04.2021 recalling an outstanding liability of Rs.1,30,60,257/-+interest

and expenses due as on 01.04.2021 and amounts recovered. It transpires that for the recovery, the first property measuring Ac.7.270 decimals was sold for a sum of Rs.25,50,000/- in favour of M/s. Koraput Organic, Koraput through e-auction sale and sale certificate issued on 21.02.2022.

3. Since the entire outstanding liability could not be met, the second property, i.e. HIG Flat No.184, Kanan Vihar, Phase-2, Chandrasekharapur, Bhubaneswar was successfully auctioned for a sum of Rs.1,60,00,000/- and sale certificate issued on 04.04.2022 in favour of the successful bidder, i.e. M/s. Times Security Services, Bhubaneswar.

4. The instant writ petition has been filed on 11.03.2022 challenging the auction sale notice dated 27.02.2022 and further for a direction to consider offered OTS proposal.

5. At the time of hearing, Mr. M. Balkrishna Rao, counsel for the Bank, upon advance notice, has appeared and stated that the Petitioner has already filed S.A. No.122 of 2021 on 04.10.2021 before the DRT, Cuttack challenging the recovery proceedings and issuance of the symbolic possession notice issued under Section 13 (4) of the Act, 2002 on 02.09.2021. He submits that there is no challenge laid to the sale certificate dated 21.02.2022 either in the DRT, Cuttack or before this Court relating to the first property auctioned in favour of M/s. Koraput Organic, Koraput for a sum of Rs.25,50,000/-, whereas in the light of the subsequent sale of property and issuance of sale certificate dated 04.04.2022 in respect of the second property-HIG Flat No.184, Kanan Vihar, Phase-2, Chandrasekharapur, Bhubaneswar, the present writ petition would not be maintainable in the light of the

auction purchaser not being impleaded as a party. That apart, in view of the settled principle of law that the appropriate remedy for such like issues is to be availed before the DRT, Cuttack and the Petitioner having already filed SA No.122 of 2021, which is stated to be pending before the DRT, Cuttack in the present account, he prays for an outright dismissal of the present writ petition.

6. At this stage, counsel for the Petitioner prays for permission to withdraw the present writ petition to enable the Petitioner to seek his remedy before the DRT, Cuttack.

7. Accordingly, the writ petition is disposed of as withdrawn with the aforesaid liberty.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Jyostna July 21st 2022
Cuttack