

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**W.P. (C) No.7591 of 2022**

***Bibhudatta Pati & Another***

....

***Petitioners***

Mr. Jayesh Pradhan, Advocate with  
Miss Itishree Tripathy, Advocate

-versus-

***Senior Manager, Odisha Gramya  
Bank, Angul & Others***

....

***Opposite Parties***

Mr. Tuna Sahu, Advocate for Bank

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

**ORDER (Oral)**  
**04.07.2022**

**Order No.**

2.      1.      This matter is taken up by virtual/physical mode.
2.      Sri Bibhudatta Pati and Sri Debadatta Pati i.e. Petitioner Nos. 1 and 2 respectively are the guarantors (along with others) of loan amounts availed by M/s. Hotel Rajlaxmi, a partnership firm, of which the Petitioners are also partner. The total loan amount was for a sum of Rs.1.00 crore with 84 instalments to be paid @ Rs.1,91,568 as EMI commencing from May, 2013. The loan account due to financial indiscipline was classified as NPA on 31<sup>st</sup> March, 2015 and thereafter, recovery process under the SARFAESI Act, 2002 was initiated with issuance of demand notice dated 30<sup>th</sup> May, 2015 recalling a sum of Rs. 1,48,00,000/- approximately as

on 30<sup>th</sup> May, 2015. The recovery process has reached the stage of auction of the mortgaged property.

3. By filing the present writ, challenge has been led to a Letter No. BO/MISC/409/2021-22, dated 24<sup>th</sup> February, 2022 responding to the letter dated 21<sup>st</sup> February, 2022 issued by the Petitioners, whereby certain aspect has been clarified and information provided. We fail to understand as to how a writ would be maintainable *qua* Annexure-12, i.e., letter dated 24<sup>th</sup> February, 2022.

4. Be that as it may, counsel for the Bank states that the partnership firm represented by the present two Petitioners had already filed SA No. 69 of 2022 challenging the auction sale notice dated 12<sup>th</sup> April, 2022 notifying the auction sale of the mortgaged property to be held on 13<sup>th</sup> May, 2022. He further states that on the said date, the auction was successfully conducted for a sum of Rs. 2,55,00,000/-. A sale certificate stands issued in favour of the auction purchaser on 31<sup>st</sup> May, 2022. He submits that the Petitioners having already availed their remedy before the DRT, the present petition would not be maintainable in view of the fact that the Petitioners would be free to amend its already filed SA No. 69 of 2022.

5. Counsel for the Petitioners prays for permission to withdraw the writ petition to enable the Petitioners to seek their remedy in accordance with law before the DRT, Cuttack.

6. 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**



Aks

July 4, 2022 Cuttack