

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 7713 of 2022

Amulya Naik

....

Petitioner

Mr. Rabindranath Prusty, Advocate

-versus-

**Authorized Officer, Union
Bank of India, Bhubaneswar
and Another**

....

Opp. Parties

Mr. Tuna Sahu, Advocate for the Bank

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M.S. RAMAN

ORDER (Oral)

12.07.2022

Order No.

- 02.**
1. This matter is taken up through virtual/physical mode.
 2. The petitioner is a defaulting borrower of a term loan availed to the tune of Rs.5 lakhs from Union Bank of India, Turang Branch, Dist-Khurda on 19.07.2013. Due to default in payment of installments the said account was classified as NPA on 31.05.2017. A demand notice under Section 13(2) of the SARFAESI Act, 2002 (for short "the Act, 2002") was issued on 28.09.2021 recalling an outstanding liability of Rs.10,58,565/- due as on 31.08.2021. Symbolic Possession was assumed on 23.02.2022 by issuance of notice under Section 13(4) of the Act, 2002. The collateral security/mortgaged house was put to auction sale on 20.05.2022 vide E-auction sale notice dated 17.04.2022.

3. By filing the present writ petition, the challenge has been laid to the aforesaid sale notice as well as the possession notice.

4. Upon willingness of the petitioner to clear the entire outstanding liability within some reasonable time, this Court on 19.05.2022 passed the following order:-

“1. This matter is taken up through virtual/physical mode.

2. Learned counsel for the Petitioner submits that to save the sole residential property being put to auction sale on 20.05.2022 for recovery of an outstanding liability of around Rs.11,00,000/-, the Petitioner is prepared to clear the entire outstanding liability provided some reasonable time is granted with payment of substantial amount as upfront payment to show his *bona fide*.

3. Issue Notice for 12.07.2022.

4. Mr. Sandeep Mishra, learned counsel on behalf of Mr. Tuna Sahu, learned counsel appears and waives of notice on behalf of the Opposite Parties/Bank.

Let requisite number of copies of the writ petition be served on him during the course of the day.

5. As an interim measure, subject to the Petitioner depositing a sum of Rs.5,50,000/- with the Bank on or before 20.05.2022, the successful bid, if any, shall not be confirmed without leave of this Court.

The petitioner also to file an undertaking for clearing the remaining balance within three months of such deposit.

Issue urgent certified copy as per rules.”

5. At the time of hearing, learned counsel for the Bank states that the petitioner have not deposited a single penny in compliance of the aforesaid orders as also undertaking. He further states that the auction fixed for 20.05.2022 has also failed for lack of any intending bidders.

6. At this stage, learned counsel for the petitioner prays for permission to withdraw the writ petition as his client has not come forward to provide instructions inspite of repeated intimations.

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

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

Basudev

12th July, 2022
Cuttack