IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P (C) No. 23466 of 2013

State Bank of India	....	***Petitioner***
		None

-versus-

The Presiding Officer, Debts Recovery Tribunal & Others	....	***Opposite Parties***
		None

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
28.06.2022

Order No.

04. **1.** This matter is taken up by virtual/physical mode.

2. State Bank of India having branch known as Stressed Assets Recovery Branch, Madhupatna, Cuttack, challenging the common order dated 10th September, 2013 passed by learned Presiding Officer, Debts Recovery Tribunal, Cuttack in S.A. No. 38 of 2012, S.A. No. 36 of 2012 and O.A. No. 334 of 2010.

3. The application being O.A. No. 334 of 2010 was filed by the Bank-Petitioner before the Debts Recovery Tribunal, Cuttack under Section 19 of the Recovery of Debts due to Bank and Financial Institution Act, 1993(now called as Recovery of Debts and Bankruptcy Act, 1993) which got decreed in favour of the Bank and the certificate was issued for recovery of Bank dues. In the said recovery proceeding the mortgaged property of Mrs. Urmila Mohanty was subject matter for sale by the Recovery Officer.

4. However, said Mrs. Urmila Mohanty, guarantor/mortgagor filed an application under Section 17 of the Securitistion and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) challenging the action taken by the Bank of Baroda under Section 13(4) of the said Act, 2002. It is alleged by the Petitioner in the writ petition that though Mrs. Urmila Mohanty created equitable mortgage in favour of the Petitioner much earlier than mortgage created in favour of the Bank of Baroda, the Debts Recovery Tribunal entertained the application under Section 17 of the said Act and as an interim measure directed for sale of mortgaged property at a price of Rs.65.00 lakhs as suggested by the mortgagor-Mrs. Urmila Mohanty in her Securitisation Application. It is stated by the Petitioner that finally when the learned Debts Recovery Tribunal dismissed the Securitisation Application of Mrs. Urmila Mohantly-guarantor directed for deposit of sale proceeds as aforesaid with the Bank of Baroda.

5. Therefore, essentially the Petitioner is aggrieved by the order of the learned Debts Recovery Tribunal, whereby such a direction in Securitisation Application of Mrs. Urmila Mohanty has an effect of modifying the order passed in O.A. No. 334 of 2010 which has been subject matter before the Recovery Officer.

6. Perusal of record shows that the writ petition, being filed in the year 2013, was listed on 16th November, 2018 on which date the matter stood adjourned on the prayer of Counsel for the Petitioner. Thereafter, the matter has been listed on 22nd June, 2022 on which date Mr. Tapan Mishra, panel lawyer for the State Bank of India on our asking appeared and prayed for time to obtain instructions. Accordingly the matter stood posted today.

7. When the matter is taken up today none appeared for both the Parties. It appears by efflux of time the Petitioner-Bank has lost interest to pursue in the matter.

8. In such view of the matter, the writ petition stands dismissed.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Laxmikant June 28th, 2022
Cuttack