

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.2586 of 2013

Mrs. Kalpana Biswal

....

Petitioner

Mr. J.K. Khuntia, Advocate

-versus-

Union Bank of India and another

....

Opposite Parties

Mr. S. Satpathy, Advocate

CORAM:

THE CHIEF JUSTICE

JUSTICE R. K. PATTANAİK

ORDER

29.06.2022

Order No.

08.

1. The grievance of the present writ petition is that the Petitioner being a successful auction purchaser in the sale of plot bearing Khata No.372/3, Plot No.208/677 of Area Ac.0.45 decimal of Mouza-Dolamundai, Cuttack Sahar, Unit No.34 is still not being put in possession of the said property by the Opposite Party Bank.

2. In response to the notice issued in the present petition, a counter affidavit has been filed by the Union Bank of India enclosing at Annexure-4 copy of the sale certificate which inter alia states that possession has been delivered of the property in question to the Petitioner. The sale certificate is dated 10th September, 2005.

3. Its further pointed out in the counter affidavit that one Archana Behera has filed suit C.S. No.164 of 2005 in the court of learned 1st Additional Civil Judge, Sr. Division, Cuttack in respect of the same property in which the present Petitioner and the Bank have

been arrayed as defendants. Copy of the plaint has been enclosed to the counter affidavit. The said suit is stated to be pending.

4. The Petitioner has failed to explain why when the sale certificate is dated 10th September, 2005 the present petition has been filed only on 1st February, 2013. Also, the Petitioner has not filed any rejoinder to the counter affidavit for nearly nine years now. Thus the averments in the counter affidavit of the Bank remain uncontroverted.

5. For all of the aforementioned reasons, the Court is not inclined to grant the reliefs prayed for in the writ petition. It is clarified that no observation made herein will influence the outcome of the aforementioned suit C.S.No.164 of 2005 stated to be pending in the court of learned 1st Additional Civil Judge, Sr. Division, Cuttack.

6. The writ petition is accordingly disposed of. The interim order is vacated.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge