

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.97 of 2013

**Udbighna Mohanty and
Another**

.... Petitioners

None

-versus-

**Odisha State Financial
Corporation & Another**

.... Opp. Parties

Ms. Basumati Pradhan, Proxy Counsel
on behalf of Mr. Amitav Das, Advocate
For Opposite Party No.1/OSFC

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

**ORDER (Oral)
28.09.2022**

Order No.

09.

This matter is taken up through virtual/physical mode.

1. The two petitioners, i.e., Udbighna Mohanty and Smt. Kalpana Mohanty claim themselves to be the legal heirs and successor-in-interest of Smt. Binodini Mohanty, who had stood as a guarantor-cum-mortgager for a loan availed by her son Shri Utkanthanath Mohanty/O.P. No.2 being the Proprietor of M/s. National Refill for promoting his business.

2. Due to financial indiscipline, the primary property offered as a security by the Proprietorship Firm was seized by OSFC under Section 29 of the S.F.C. Act, 1951 and sold towards recovery of the outstanding

liabilities. Since the liabilities were not completely liquidated, OSFC issued a notice dated 13.12.2012 (Annexure-6) to Smt. Binodini Mohanty calling upon her to clear the remaining outstanding amount of Rs.1,17,64,629/- within fifteen days failing which the collateral securities owned by her were to be proceeded against for realization of the dues.

3. The aforesaid Smt. Binodini Mohanty-guarantor is stated to have since died, and the petitioners claiming themselves to be the legal heirs and successor-in-interest have filed the present writ petition challenging the aforesaid notice (Annexure-6).

4. Upon notice, the OSFC has recently filed a counter affidavit dated 15.09.2022, wherein the outstanding dues in the loan account of the Unit-M/s. National Refill as on 31.12.2021 are stated to be Rs.4,35,49,469/-.

5. Learned counsel for the OSFC has stressed that no legal basis has been laid down for maintaining a challenge much less a successful challenge to the aforesaid notice demanding the outstanding amount. He further submits that since many occasions none has appeared on behalf of the petitioners before the Lok Adalat; as also before this Court on 05.07.2022, 26.07.2022 and 15.09.2022. The position is the same at the time of hearing today. He thus submits that

the petitioners are not interested in pursuing the present writ petition.

6. We are persuaded to agree with the learned counsel for the OSFC. In fact on the previous date on 15.09.2022 it was specifically recited that in case none would appear on behalf of the petitioners on the next date, i.e., today, the writ petition would be liable to be dismissed for non-prosecution.

7. In view of the above, the writ petition is dismissed for non-prosecution.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

AKK

September 28th, 2022
Cuttack