IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.16360 of 2013

Rajendra Kumar Rokkam @ R. Rajendra Kumar	....	***Petitioner***

Mr. Nagen Kumar Barik, Advocate

-versus-

Andhra Bank, (A Government undertaking) represented through its Authorized Officer, Zonal Office, Bhubaneswar and another	....	***Opp. Parties***

Mr. P. N. Mishra, Advocate for Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. RAMAN

ORDER (ORAL)

Order No. **15.03.2022**

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

2. The Petitioner is a successful Auction-Purchaser and vide the instant writ petition seeks indulgence of this Court to cancel the Auction sale and asks for subsequent refund of the deposited amount along with interest @ 18% from the date of deposit till date of realization.

3. The brief facts of the case are that the Petitioner is a successful Auction-Purchaser of the auction conducted by Respondent no. 1 i.e. Andhra Bank dated

25.03.2010 by offering an amount of Rs.4,00,000/- in respect of the property located at Plot No. 1400/1756/1825/2423/1, Mutation plot No. 1579/91, Khata No. 325/767, 32/203, Mouza- Pathargadia, PS-Chandaka, Tahasil-Bhubaneswar, District-Khordha. The Petitioner has deposited the whole consideration money.

4. Heard the Counsel for rival parties at length and perused the pleadings with their able assistance.

5. The Petitioner submits before us that the Respondent-Bank is yet to hand over the possession of the property and execute the sale deed in favour of him. He further raises question about the authority of the bank to auction the property.

6. Per Contra, the counsel for the Respondent has filed a counter-affidavit whereby it is asserted that the Respondent-Bank has duly executed the sale certificate in favour of the Petitioner on 06.07.2011 and also delivered the possession of the property to the Petitioner-auction purchaser as per the recital of the Sale Certificate duly acknowledged by the Petitioner.

7. The question raised before us involves serious disputed question of facts, which cannot be adjudicated in our writ jurisdiction. Hence, we believe the proper remedy for the Petitioner is to approach the DRT, Cuttack. Further, we direct the DRT, Cuttack to exclude the time period spent by the Petitioner in this Court in calculating the Limitation Period. The counsel for the Bank has also graciously agreed not to raise the question of limitation in case proper application is filed before the DRT within six weeks of receipt of certified copies of the order.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

March 15th 2022
Cuttack

AKPradhan