IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.10813 of 2022

Satyajit Senapati .... ***Petitioner***

Mr. Milan Kanungo, Senior Advocate
with Mr. Asish Mishra, Advocate

-versus-

Authorized Officer & Chief Manager, Bank of Baroda, Buxi Bazar, Cuttack & Another .... ***Opp. Parties***

Mr. Sambit Samal, Advocate for the Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
23.08.2022

Order No.

05. **1.** This matter is taken up through hybrid arrangement (virtual/physical mode).

2. Petitioner is a proprietor of M/s. Senapati Motors which had availed a Cash Credit facility in C.C. Account No.26070500000005 for a sum of Rs.5.5 Crore on 20th January, 2018 from Bank of Baroda, Paradeep Branch, Paradeep. It is orally submitted that apart from the aforesaid Cash Credit Loan account, the proprietorship concern has availed loan facilities in four other loan accounts. Due to financial indiscipline, the aforesaid C.C. loan account was declared as NPA on 1st November, 2019. A Demand Notice dated 14th January, 2020 is stated to have been issued seeking to recall the outstanding liability of Rs.5,84,25,475/- due as on 5th November, 2019. It is stated that the residential land situated over Khata No.657, Plot Nos.493, 494 and 495, Kissam-Gharabari, Mouza-Talpada, PS-Tirtol, District-Jagatsinghpur, total measuring Area-A0.368 decimal in the name of Mrs. Jhili Gochhayat (Guarantor) was offered as a collateral security in the aforesaid Loan account only. The symbolic possession of the aforesaid collateral security was assumed by issuance of a Notice under Section 13(4) of the SARFAESI Act, 2002 on 19th July, 2021.

3. By filing the present Writ Petition, a mandamus has been sought for directing the Bank to restructure the credit facilities of the petitioner in terms of the guidelines issued by the R.B.I. in the wake of Covid-19 Pandemic.

4. It is apparent that the e-auction Sale Notice dated 31st March, 2022 fixing the auction sale of the aforesaid collateral security for 12th May, 2022 was annexed but no challenge to the same was made.

5. At the time of first date of hearing on 5th May, 2022 and on 10th May, 2022, an oral request was made for directing the Bank to provide the computation sheet of the outstanding liabilities in view of the alleged outstanding liabilities having swelled from Rupees Five odd Crores to Rupees Nine odd Crores within a span of two and half years. Accordingly, the Bank officials were directed to file an affidavit indicating the computation of the outstanding liabilities.

6. The affidavits have been filed however the manner in which the outstanding liability in the aforesaid Loan account having swelled to Rupees Nine Crores has not been explained.

7. At the time of hearing, Mr. Amiya Ranjan Padhi, Chief Manager along with Ms. Tilotama Muduli, Senior Manager (Legal), Bank of Baroda, Regional Office-II, Buxi Bazar, Cuttack, are present in Court. They have conceded (subject to cautionary cross-checking) that although apart from the present C.C loan account, four other loan accounts have been declared NPA, however the aforesaid immovable property has been mortgaged only in the present loan account. They also assure the Court that the aforesaid property in question will be put to sale only for the outstanding liabilities of the Loan account in which the same has been mortgaged. It is further stated that the auction fixed on 12th May, 2022 had failed for want of any bidders.

8. Learned Senior Counsel for the petitioner in view of the aforesaid stand of the Bank and the consequent reduced liability prays for permission to withdraw the Writ Petition to enable his client to seek his remedy in respect of restructuring or OTS in accordance with the terms and conditions of the prevailing policies.

It is hoped that if any such applications are made, the same shall be decided by the Bank in accordance with law, within two weeks of such applications.

9. In view of the above, the Writ Petition is dismissed as withdrawn.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

AKK 23rd August, 2022
Cuttack