

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P(C). No.12713 of 2022

***M/s. Bhagabati Rice Industries Pvt.
Ltd.***

Petitioner

Mr. Harihar Panigrahi, Advocate

-versus-

***Authorised Officer-cum-Chief
Manager, State Bank of India,
Jagatpur & Another***

Opposite Parties

Mr. Subrat Mishra, Advocate for
Bank

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

Order No.

**ORDER (Oral)
24.06.2022**

- 04.**
1. This matter is taken up by virtual/physical mode.
 2. E-Auction sale notice dated 11th May, 2022 for default in re of loan in respect of Cash Credit account and Term Loan account was issued in consequence of notice U/s 13(2) of the SARFAESI Act, 2002. Symbolic possession U/s 13(4) of the SARFAESI Act, 2002 was assumed, the defaulting borrower-Private Limited Company has approached this Court under Article 226 of the Constitution of India for interference.
 3. Considering the grievance of the Petitioner that the Opposite Parties/Bank having declared the aforesaid accounts as Non-Performing Asset with effect from 31st December, 2014 and recalled an amount of Rs.2,39,98,877/-(interest applied in the account up to 31st October, 2014) towards cash credit account and Rs.1,32,72,361/- (interest applied up to 30th November, 2014) in term loan account by issuance of notice U/s 13(2) of the

SARFAESI Act, 2002, this Court vide order dated 20th May, 2022 passed the following order.

“Xxx

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Learned counsel for the Petitioner prays for adjournment to seek instructions from his client in respect of payment of 50% of the outstanding liability as on today i.e. Rs.1.5 crores with the remaining balance to be paid within next four months, in order to prevent the sale of his mortgaged property.”

4. During course of hearing today, Mr. Subrat Mishra, counsel for the Bank submitted that E-auction sale fixed to 30th May, 2022 pursuant to notice dated 11th May, 2022 is failed for want of any intending bidders. However, fresh notice for auction sale has been issued on 1st June, 2022 fixing the date of auction on 28th June, 2022 for recovery of an amount of Rs.7,36,24,000/- including interest up-to 5th April, 2021 with further interest and incidental expenses, costs, charges etc. has been issued.

5. In view of such submission the cause of action by virtue of notice dated 11th May, 2022 does not survive any more.

6. Hence, the writ petition is dismissed.

7. However, the Petitioner is at liberty to seek appropriate remedy, if it is so advised, against the fresh cause of action.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge