

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.8539 of 2011

Maa Bauti Power Loom Weavers' Cooperative Society Limited ***Petitioner***

Mr. Sidheswar Mallik, Advocate

-versus-

Orissa State Financial Corporation and others ***Opposite Parties***

Mr. Amitav Das, Advocate for OSFC

Ms. S.L. Pattanaik, Advocate for O.P. No.3

Mr. P.P. Behera, Advocate for the Intervener

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAİK

ORDER
30.03.2022

Order No.

05. 1. Learned counsel appearing for the Petitioner is unable to tell the Court what is the exact amount owed by the Petitioner to the OSFC. Even learned counsel appearing for the OSFC is unable to inform the Court about this.
2. Learned counsel appearing for the Intervener-M/s. Utkal Electromech Associates has stated in its intervention application supported by an affidavit that the said entity purchased the land and building of the Petitioner in a public auction and paid Rs.91,40,000/-. The receipts for such payment have been enclosed with the application. It is stated that the said amount was accepted and acknowledged by the OSFC. Of the said amount, Rs.22,85,000/- was towards EMD and Rs.68,55,000/- for the balance consideration amount and interest of Rs.71,500/-. Despite parting with such a huge sum way back in 2011, the Intervener has not yet been put in possession of the property

because of the interim order passed by this Court on 4th May, 2011.

3. Learned counsel for the Petitioner relies on a judgment dated 28th October 2011 passed by this Court in W.P.(C) No.19729 of 2010 (*M/s. Baladevjew Powerloom Weavers Co-operative Society v. Orissa State Financial Corporation*) to urge that in similar circumstances, the auction sale which was without notice to the original borrower was set aside.

4. The basis for judicial intervention with auction sales as explained by the Supreme Court in several decisions including *Haryana Financial Corporation v. Jagdamba Oil Mills AIR 2002 SC 834* is to ensure that the property in question fetches the best price. However, the person challenging the auction sale must come forward with either a better offer or a buyer who is prepared to make a better offer. The Petitioner in the present case is in no position to either make a better offer or bring buyer who can make a better offer.

5. In the circumstances, the Court sees no reason why it should continue the interim order passed by it. The said interim order dated 4th May 2011 is hereby vacated.

6. The Petitioner appears to have also availed of a loan from the State Bank of India (SBI) which has gone before the Debt Recovery Tribunal, Cuttack (DRT) where proceedings initiated by SBI against the Petitioner are stated to be pending. The OSFC is also a party to those proceedings. IN the circumstances, it is

directed that it will be open to the Petitioner to pursue further remedies before the DRT in accordance with law.

7. The writ petition is accordingly disposed of.

8. Urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Guin

