

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.32706 of 2011

Daitari Jena and another **Petitioners**
Mr. P.K. Mishra, Advocate

-versus-

**State Bank of India, Jajpur
and another** **Opp. Parties**
None

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. RAMAN

ORDER (Oral)
22.03.2022

Order No.

- 04.** 1. This matter is taken up through virtual/physical mode.
2. The two petitioners (Husband-Wife Duo) are the guarantors for a home loan availed by Rabindra Jena/Opposite Party No.2 for a sum of Rs.6 lakhs on 10th February, 2004 from State Bank of India, Jajpur Branch. They also stood guarantors for another loan for a sum of Rs.29,48,000/- sanctioned on 05th September, 2005 for purchased of a TATA TIPPER. For lack of deposit of due installments the accounts were declared NPA. The Bank, apart from filing the recovery suit under Section 19(4) of the Recovery of Debts due to Banks and Financial Institutions Act, 1993, initiated recovery process under the SARFAESI Act, 2002 qua the collateral securities.
3. A demand notice under Section 13(2) of the SARFAESI Act, 2002 (for short the Act, 2002) was issued on 10th August, 2009 recalling the outstanding amounts of Rs.47,26,778/- due as on the said date in both the loan accounts. Subsequently, a notice under Section 13(4) of the

Act, 2002 was issued on 12th December, 2011 assuming the symbolic possession of the secured asset.

4. A challenge in the present writ petition is for quashing the notice under Section 13(4) of the Act, 2002 without laying down in legal basis; and charging of penal interest with further direction to settle the loan account under the OTS scheme.

5. Learned counsel for the petitioner states that inspite of innumerable intimation to the petitioner, he has failed to respond and therefore states that he has no instruction to appear.

6. In view of the above, the writ petition is dismissed for none prosecution.

The Registry is directed to inform the petitioners and State Bank of India, Jajpur of this order.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

Basudev

March 22nd, 2022
Cuttack