IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14566 of 2022

M/s. Utkal Motors Pvt. Ltd. .... ***Petitioner***

Mr. M.R. Sahoo, Advocate

-versus-

Bank of Baroda, Cuttack and Others .... ***Opp. Parties***

Mr. G.D. Kar, Advocate for the Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. RAMAN

ORDER (Oral)

Order No. **11.10.2022**

01. This matter is taken up through virtual/physical mode.

1. The petitioner is a Registered Pvt. Ltd. Company which had availed Cash Credit facilities to the tune of Rs.3 crores from Bank of Baroda, Buxibazar Branch, Cuttack on 11.12.2006 and has approached this Court with the following prayer:-

> "The petitioner therefore humbly prays that this Hon'ble Court may graciously be pleased to issue Rule Nisi calling upon the opp. parties to show cause as to why they be not directed to hand over the physical possession of the mortgaged properties in favour of the petitioner and on perusal of causes shown, if, or upon insufficient causes shown be pleased to make the said Rule absolute.
>
> And may pass such other order and/or direction as deemed just and proper.
>
> And for which act of kindness, the petitioner shall, as in duty bound, ever pray."

2. At the outset, Mr. G.D. Kar, learned counsel for the Bank submits that no doubt on the loan account having been classified as NPA, recovery process under the SARFAESI Act, 2002 had been initiated as also an O.A. No.367 of 2014 filed before the DRT for recovery of the outstanding liabilities to the tune of Rs.4,58,80,000/- along with interest etc. However, at this stage the present writ petition has become infructuous in view of the aforesaid loan account itself having been closed, pursuant to the settlement arrived at in the pending O.A. No.367 of 2014 duly acknowledged in the order dated 13.08.2022 passed by the DRT in the said O.A. As regards the handing over the physical possession the prayer is misconceived as the actual physical possession of the mortgaged property was never undertaken. Assuming, even for the sake of arguments it was taken, it shall be liable to be restored in view of the instant loan account having been liquidated unless it is a subject matter of recovery process in other loan accounts.

3. In view of the above, the writ petition is disposed of as infructuous.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

Basudev

11th October, 2022
Cuttack