IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.16073 of 2022

M/s. P.K. Ores (P) Ltd. and Others .... ***Petitioners***

Mr. Siddheswar Baug, Advocate

-versus-

Bank of Baroda, Bhubaneswar Region, Regional Office, Nayapalli, Bhubaneswar, District-Khordha .... ***Opp. Party***

Mr. Sibadutta Mishra, Advocate for the Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
10.08.2022

Order No.

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

2. Petitioner No.1-M/s. P.K. Ores Private Limited had availed a Cash Credit facility for a limit of Rs.95,00,000/- in the year 2014 from the Bank of Baroda, Nayapalli Branch, Bhubaneswar for its Mining related business. Apart from the aforesaid facility, another FITL-COVID Loan amounting to Rs.7,97,628/- was sanctioned on 19th September, 2020. Petitioner Nos.2 to 6 are stated to be the Directors-cum-family members and also executed deeds of personal guarantee, whereas Petitioner No.7-M/s. P.K. Infra and Power Company Private Limited is stated to be the guarantor of the loan facilities availed by the Petitioner No.1.

Due to non-servicing of the aforesaid loan account, it was declared as NPA on 31st March, 2021 leading to issuance of a Demand Notice dated 20th July, 2021 under section 13(2) of the SARFAESI Act, 2002, (for short, "the Act, 2002") recalling the outstanding liabilities to the tune of around Rs.92 Lakhs. Subsequently symbolic possession of the immovable mortgaged property was assumed by issuance of a notice under Section 13(4) of the Act, 2002 on 9th February, 2022. The effort of the Bank for recovery of the loan amount by way of sale of the auction property on 24th March, 2022 failed for want of any intending bidders.

3. The situation as it stands today, the total outstanding amount as on today is around Rs.1,03,00,000/- and the petitioners by filing the present Writ Petition are seeking a mandamus for directing the Bank for liquidating the account by way of a settlement under an OTS Scheme.

4. Learned counsel for the Bank submits that there is no special OTS Scheme in operation which creates a right in favour of the petitioners to seek a settlement under the same. However, the petitioners are free to seek an amicable settlement under the regular OTS policy by giving a viable offer acceptable to the Bank in view of the realizable value of the secured asset being more than Rs.4 crores.

5. In view of the above, we dispose of the Writ Petition by relegating the petitioners to seek their available remedies in accordance with law.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

AKK

10th August, 2022
Cuttack