

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.16995 of 2022

Puspalata Nayak

.... Petitioner

Mr. Lingaraj Mohanty, Advocate

-versus-

***The Regional Manager,
Union Bank of India,
Regional Office, Nayapalli,
Bhubaneswar and Others***

.... Opp. Parties

Mr. Tuna Sahu, Advocate for the Bank

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

**ORDER (Oral)
23.08.2022**

Order No.

- 03.** 1. This matter is taken up through hybrid arrangement (virtual/physical mode).
2. Petitioner, who is one of the guarantors of loan facility availed by M/s. Hotel Blue Lagoon, Bhubaneswar/Opposite Party No.3 has filed the present Writ Petition challenging the Memo dated 24th May, 2022 (Annexure-6), whereby her request for providing alternative security in the form of FDR for a value of Rs.23.79 Lakhs in lieu of removal of the collateral security earlier extended has been rejected by the Secured Creditor/Union Bank of India; further prayer is for issuing a mandamus to the Bank to accept the aforesaid alternative security in the form of

FDR in place of the collateral security of immovable property.

3. After hearing learned counsel for the petitioner and the Bank, who is on advance notice, we find that the present Writ Petition is totally devoid of any merits.

It is not in dispute that the Partnership Firm under the name and style of M/s. Hotel Blue Lagoon, of which one of the partners-Ganeswar Nayak is the husband of the petitioner has availed a Term Loan of more than Rupees Two and half Crores for construction of a Hotel project and for which a dispute has arisen between the Bank and the Partnership Firm. It is also undisputed that the immovable property owned by the petitioner with the net worth of around Rs.2 Crores has suffered an equitable mortgage as one of the collateral securities apart from the personal guarantee of the petitioner. In view of the huge liability of the Partnership Firm to pay back the outstanding liabilities, the non-acceptance by the Bank of the alternative security of the FDR for a sum of Rs.23.79 Lakhs for removal of the collateral security worth more than Rs.2 Crores cannot be faulted with by any stretch of imagination. That apart, the petitioner has not shown any statutory provision or any other provision which

entitles the petitioner to claim the substitution of the security as a matter of right.

4. In view of the above, the Writ Petition is hereby dismissed.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

AKK

23rd August, 2022
Cuttack

