

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17330 of 2022

Debasis Patra

.... Petitioner

None

-versus-

**Authorized Officer/Chief
Manager, Bank of Baroda,
Regional Asset Recovery
Branch, Sampur, Kalinga
Nagar, Bhubaneswar &
Another**

.... Opp. Parties

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

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

**ORDER (Oral)
14.10.2022**

Order No.

05.

This matter is taken up through virtual/physical mode.

1. Petitioner-Debasis Patra is a co-borrower with the principal borrower-Mr. Judhistir Patra, who happens to be his father and also the proprietor of M/s. Mahalaxmi Bhandar. The brother of Mr. Judhistir Patra i.e. Paramananda Patra is the guarantor of two loan facilities (one Housing Loan and a Cash Credit Loan) availed from the Bank of Baroda, Khandagiri Branch, Bhubaneswar by the petitioner and his father. Due to financial indiscipline, both the loan accounts were classified as NPA on 16th August, 2016 and a Demand Notice under Section 13(2) of the SARFAESI Act, 2002 was issued on 31st October, 2016 recalling the aggregate

outstanding liability of around Rs.25 Lakhs. The symbolic possession of the mortgaged property owned by father Mr. Judhistir Patra was assumed on 9th June, 2022 and the same was put for auction on 15th July, 2022 after issuing a Sale Notice dated 9th June, 2022 (Annexure-2).

2. The challenge in the present Writ Petition is to the aforesaid Sale Notice.

3. Upon willingness of the petitioner to clear the entire outstanding liability within some reasonable time and deposit the substantial amount as upfront, this Court while issuing notice to the opposite parties on 14th July, 2022, passed the following order:

“1. This matter is taken up virtual/physical mode.

2. The petitioner is a defaulting borrower in two loan accounts with an outstanding liability stated to be around Rs.45.00 Lakhs as on today, and for the recovery of the same, the auction of the mortgaged property is fixed for tomorrow i.e., 15th July, 2022.

3. Learned counsel submits that the petitioner is prepared to clear the entire outstanding liability within some reasonable time with the substantial amount upfront to show his bona fides.

4. Issue notice for 26th August, 2022.

5. Mr. G.D. Kar, counsel for the Bank appears and waives off notice on behalf of the Opposite Parties/Bank.

Let requisite number of copies of the writ petition be served on him during the course of the day.

6. In the event the petitioner deposits a sum of Rs.25.00 Lakhs by tomorrow (15th July, 2022), the successful bid, if any, shall not be confirmed without the leave of the Court.

Issue urgent certified copy as per rules.”

4. At the time of hearing, learned counsel for the Bank states that neither the petitioner is appearing before this Court since last three dates and the position is same as of today, nor has he deposited the required amounts in compliance of the order dated 14th July, 2022. He further submits that the auction fixed for 15th July, 2022 was confirmed in favour of the highest bidder, however, the said successful bidder has since asked for refund of the bid amount in view of certain additional charges, which were not disclosed at the time of auction. He submits that the Bank is in the process of refunding the bid amounts to the said highest bidder.

5. In view of the aforesaid development, he submits that the present Writ Petition has become infructuous and accordingly the same is hereby dismissed as infructuous.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Sipun

14th October, 2022
Cuttack

