

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.18251 of 2022

Sandhya Rani Mishra

.... ***Petitioner***

Mr. J.K. Mishra 2, Advocate

-versus-

The Authorised Officer-cum-Chief

Opposite Parties

***Manager, Union Bank of India,
Sambalpur Branch, Sambalpur &
Another***

Mr. Tuna Sahu, Advocate for Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)

02.08.2022

Order No.

- 02.** **1.** This matter is taken up by virtual/physical mode.
- 2.** M/s. Kalinga Industries, proprietorship concern of Shri Aditya Prasad Mishra, availed Cash Credit facility from Union Bank of India in the year 2017 and two properties were mortgaged. On account of non-service of the loan account, the account was classified as NPA on 30th April, 2018. Subsequently, a demand notice under Section 13 (2) of the SARFAESI Act, 2002 was issued on 3rd May, 2018, recalling an amount of Rs.2,29,52,968.76 stood as on 30th April, 2018. The symbolic possession was assumed by issuance of notice U/s 13(4) of the SARFAESI Act, 2002, which was published in newspaper on 27th July, 2018. After failure of E-auction fixed on 30th December, 2019, 16th December, 2019 and 27th May, 2022, further auction sale notice was issued on 30th June, 2022 fixing date of auction on 20th July, 2022.

3. It is the auction sale fixed for 20th July, 2022, which has been challenged in the instant writ petition by one of guarantors, who own the subject property .

4. Mr. Tuna Sahu, counsel for the Bank submitted that the auction was successfully conducted for an amount of Rs.61,00,000/- and the remaining outstanding balance stands at Rs.35,00,000/- and the Opposite Party-Bank is presently pursuing its remedy to recover the said amount before the Debts Recovery Tribunal in O.A. No. 479 of 2019. He further submits the proper remedy to challenge the auction sale is before the DRT under Section 17 of the SARFAESI Act, 2002.

5. In view of the above, the writ petition is disposed of as not maintainable and relegating the Petitioner to seek his available remedy in accordance with law.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge