

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.22499 of 2021

Manoj Kumar Sahu

.... ***Petitioner***

Mr. P.V. Balakrishna, Advocate

-versus-

Punjab National Bank & Others

.... ***Opposite Parties***

Mr. Subrat Sarangi, Advocate for Bank

Mr. D.N. Mishra, Advocate for the
applicant-intervenor (auction purchaser)

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)

26.08.2022

Order No.

09. 1. This matter is taken up by virtual/physical mode.
2. The Petitioner-Manoj Kumar Sahu is the sole guarantor of a cash credit loan for a sum of Rs.49.00 lakhs availed by M/s. Sitaram Agency, a proprietorship concern of Sri Suryanarayan Padhi on 23rd January, 2018. Due to financial indiscipline, the said loan account was classified as NPA on 1st July, 2019 and issuance of a demand notice under Section 13(2) of the SARFAESI Act, 2002 on 21st August, 2019, recalling an outstanding liability of Rs.50,96,823.84 with interest as on 21st August, 2019. The symbolic possession of the property owned and mortgaged by the Petitioner was assumed on 29th October, 2019 by issuance of a demand notice under Section 13(4) of the SARFAESI Act, 2002. The recovery process have culminated into the sale of the mortgaged property on 12th August, 2021 and issuance of a sale certificate on 9th August, 2022 in favour of the successful auction purchaser-Mr. Sanjay Kumar Panigrahy.

3. By filing the present writ petition, the guarantor has prayed for quashing of the sale auction notice and also for a direction for an amicable settlement.

4. Upon notice, the Bank has filed its reply, and the auction purchaser is before this Court by way of an application for joining the proceedings as an intervenor.

5. It is pointed out that the principal borrower has already filed an S.A. No.109 of 2021 challenging the recovery process initiated by the Bank, which was stated to be last listed on 18th August, 2022. Counsel for the Bank submits that the parallel proceedings by the guarantor before this Court are not maintainable as the borrower is already agitating issue before the DRT which is the proper forum, and necessary amendments, if any, can be made in the already file S.A. including the Petitioner-guarantor doing the pending proceedings.

5. At this stage, counsel for the Petitioner prays for withdraw the present writ petition and enable his client to seek his available remedy in accordance with law.

6. In view of the above submission, the writ petition is dismissed as withdrawn with the aforesaid liberty.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge