

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No. 20570 of 2022

Kailash Chandra Jena & Another ***Petitioners***
Mr. Jayant Kumar Padhy, Proxy Counsel on
behalf of Mr. Amit Prasad Bose, Advocate

-versus-

UCO Bank, Authorised Officer, ***Opposite Parties***
Zonal Office, Sambalpur & Others
Mr. Bibhuti Bhusan Swain, Advocate for
Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
27.09.2022

Order No.

03.

This matter is taken up by virtual/physical mode.

1. The Petitioners, borrowers, availed 1st term loan of Rs.8,95,000/- on 24th September, 2010 1996 and 2nd term loan of Rs.6,00,000/- on 22nd March, 2012 from UCO Bank, Angul Branch, Angul. Due to non-servicing, both the accounts were classified as NPA on 30th September, 2015. A demand notice under Section 13(2) of the SARFAESI Act, 2002 was issued on 1st March, 2018, recalling an amount of Rs.14,36,273.55 (in respect of both the accounts) outstanding as on 2nd February, 2018. Non-response to said notice led to assumption of symbolic possession of the secured asset by issue of notice dated 11th May, 2018 under Section 13(4).

2. The Petitioners by way of writ petition challenged, the issue of e-auction sale notice dated 17th July, 2022 fixing date of auction on 22nd August, 2022.

3. This Court *vide* order dated 17th August, 2022, while issuing notice to the Opposite Parties-Bank, directed as follows:-

“In the meanwhile, the operation of the impugned e-auction notice, Annexure-2 to the writ petition shall remain suspended so far as the property of the petitioner is concerned, subject to payment of Rs.8,00,000/- by 19th August, 2022 and another sum of R.5,00,000/- by 12th September, 2022.”

This Court passed further order on 13th September, 2022, which is as follows:-

“2. Counsel for the Bank submits that the Petitioners have not fully complied with the direction contained in the order dated 17th August, 2022 inasmuch as an amount of Rs.1,60,000/- still remains to be paid till today. He further submits that the auction sale fixed for 22nd August, 2022 has failed for want of any intending bidders.

3. Normally for non-compliance of the interim direction, we would have proceeded to dismiss the petition. However, due to the vehement insistence of Mr. Bose, counsel for the Petitioner for granting one more opportunity to the Petitioner to pay not only the remaining amount of Rs.1,60,000/- in terms of the interim direction but also file an undertaking to clear the remaining balance of around Rs.10.00 lakhs along with interest within next three months, we grant a short adjournment to inform the Petitioners for necessary action.

4. List on 27th September, 2022.

5. Before the next date, the remaining amount of Rs.1,60,000/- in terms of the order dated 17th August, 2022 be deposited as also an undertaking in the above terms be filed before this Court.

The Bank is permitted to appropriate the already deposited amounts.”

4. When the matter is taken up today, Mr. Jayant Kumar Padhy, Proxy Counsel appearing on behalf of Mr. Amit Prasad

Bose, counsel for the Petitioners submitted that he has no instruction in this matter.

5. Mr. Bibhuti Bhusan Swain, counsel for the bank submitted that the orders passed by this Court have not been complied with by the Petitioner. He further submitted that the e-auction has failed due to lack of intending bidder.

6. In view of the aforesaid submission, the relief claimed for being not available, the writ petition is dismissed as infructuous.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Laxmikant

September 27, 2022

Cuttack

