

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.20753 of 2022

Hare Krushna Mandal* *Petitioner

Mr. Arabinda Tripathy, Advocate

-versus-

***Authorised Officer-cum-Chief
Manager, UCO Bank, Zonal
Office, Balasore and Another* *Opp. Parties***

Mr. Sunil Swain, Advocate for the Bank

CORAM:

**JUSTICE JASWANT SINGH
JUSTICE M.S. SAHOO**

ORDER (Oral)

08.12.2022

(Hybrid Mode)

Order No.

- 04.** **1.** The petitioner is stated to have availed a Cash Credit facility for a sum of Rs.6 lakhs from UCO Bank, Bhogarai Branch, Dist- Balasore/Opposite Party No.2 on 21.08.2012. Due to financial indiscipline, the loan account was classified as NPA on 02.11.2013 leading to issuance of a demand notice dated 24.07.2014 under Section 13(2) of the SARFAESI Act, 2002 (for short “the Act, 2002”) recalling the outstanding liabilities of Rs.6,13,190/-. Symbolic possession of the Collateral Security/Mortgaged Residential House was assumed on 13.01.2016 by issuance of a notice under Section 13(4) of the Act, 2002. Thereafter, a notice dated 22.02.2022 appears (Annexure-2) to have been

issued requesting the petitioner to peacefully handover the vacant possession to the Bank.

2. The present Writ Petition has been filed challenging the auction sale notice dated 04.08.2022 fixing the E-auction sale of the mortgaged house on 29.08.2022 for an outstanding liability of Rs.38 lakhs. In view of the willingness of the petitioner to deposit the entire outstanding liabilities with substantial amount as upfront, a conditional order was passed on 22.08.2022, which for ready reference reads as under:-

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

***2.** The auction sale of the Secured Asset for an outstanding amount of around Rs.38 lakhs as on today is fixed for 29th August, 2022. A mercy plea is being raised for grant of some reasonable time to clear the outstanding liability subject to deposit a substantial amount as upfront to save the sole residential house offered as security.*

***3.** Issue notice for 16.09.2022.*

Mr. Sunil Swain, learned counsel appears and waives of notice on behalf of the Opposite Parties/Bank. Requisite number of copies of the Writ Petition be served upon him within three working days.

***4.** As an interim measure, subject to the petitioner depositing a sum of Rs.19 lakhs on or before 29.08.2022, the successful bid, if any, shall not be confirmed without the leave of the Court. In case, the aforesaid amount is deposited, the petitioner will also file his undertaking for clearing the remaining balance within next four months.*

3. On the next date of hearing on 16.09.2022 the following order was passed:-

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

1. Mr. Sunil Swain, Counsel for the Bank states that the Petitioner has not deposited the required amounts in terms of the order dated 22nd August, 2022

2. Counsel for the Petitioner prays for an adjournment.

3. List on 10th November, 2022.”

4. At the time of hearing, in view of the petitioner having not deposited the amounts and the auction fixed on 29.08.2022 having failed for want of any intending bidder, we are not inclined entertain the present Writ Petition any further.

5. In view of the above, the Writ Petition is dismissed.

**(Jaswant Singh)
Judge**

**(M.S. Sahoo)
Judge**

Basudev

8th December, 2022
Cuttack