IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.21752 of 2022

Ashok Kumar Dalbehera .... ***Petitioner***
Mr. Kedar Shankar Sahu, Advocate

-versus-

Branch Manager, UCO Bank, Parjang Branch & Another .... ***Opposite Parties***

Mr. Utkal Keshari Mohapatra, Proxy counsel on behalf of Mr. Bibhuti Bhusan Swain, Advocate for Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
13.10.2022

Order No.

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

1. The father of the Petitioner late Sarat Chandra Dalbehera availed a term loan of Rs.3.95 lakhs in the year 2008. Said loan account was secured by mortgaging land and building recorded in Khata No.617/216, Plot No.3474/5878/6654 having Area Ac.0.09 dec. in Mauza-Gadaparjang. Due to irregularity in repayment, the said loan account was classified as NPA on 30th September, 2014. Consequently, a demand notice under Section 13(2) of the SARFAESI Act, 2002 was issued on 29th March, 2022, recalling an amount of Rs.5,31,883/- outstanding as on 29th September, 2014. Since there was non-payment of said amount within the period stipulated, symbolic possession of the secured asset was assumed by issuance of notice under Section 13(4) of the SARFAESI Act on

25th July, 2022 specifying 29th August, 2022 as the date for sale through e-auction.

2. This Court vide order dated 26th August, 2022 passed the following order:-

> "*2. The Petitioner along with co-borrower-wife/Mrs. Reena Dalbehera had been sanctioned a term loan of Rs.3,95,000/- on 22nd February, 2008 from the UCO Bank, Dhenkanal. The immovable property owned by the father of the Petitioner, namely, Sarat Chandra Dalbehera was mortgaged as a collateral security for the loan.*
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> ***3.*** *Due to financial indiscipline, the loan account was classified as NPA on 30th September, 2014 and thereafter initiation of the recovery process under the SARFAESI Act, 2002. It is submitted that the auction of the mortgaged properties is fixed for 29th August, 2022 for an outstanding liability of around Rs.14,50,000/- as on today. The Petitioner is stated to be prepared to liquidate the account provided some reasonable time is granted.*
>
> ***4.*** *Issue notice for 13th October, 2022.*
>
> ***5.*** *Mr. Bibhuti Bhusan Swain, counsel for the Bank appears and waives off notice on behalf of the Opposite Parties.*
>
> *Let requisite number of copies of the writ petition be served on him during course of the day.*
>
> ***6.*** *As an interim measure, subject to the Petitioner depositing a sum of Rs.7,50,000/- on or before 29th August, 2022, the successful bid, if any, shall not be confirmed without the leave of the Court. The Petitioner shall also file an undertaking to clear the remaining balance within next four months."*

3. At the time of hearing today, Mr. Utkal Keshari Mohapatra, Proxy Counsel appearing on behalf of Mr. Bibhuti Bhusan Swain, Counsel for the Bank submitted that the terms of the interim order dated 26th August, 2022 have not been complied with.

4. At this stage, Mr. Kedar Shankar Sahu, counsel for the Petitioner sought for permission to withdraw the writ petition.

5. Accordingly, the writ petition stands dismissed as withdrawn.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Aks October 13, 2022 Cuttack