

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.27188 of 2021

Narayan Mallick

....

Petitioner

Mr. Ravi Shankar Samal, Advocate

-versus-

***Chief Manager, Odisha Gramya
Bank, Cuttack and another***

....

Opp. Parties

Mr. Tuna Sahu,
Advocate for the Bank

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M.S. RAMAN

ORDER (Oral)

23.06.2022

Order No.

06.

1. This matter is taken up through virtual/physical mode.
2. The Petitioner is a defaulting borrower, who had availed a term loan facility on 1st January, 2015 to the tune of Rs.4.00 lakhs for the purpose of poultry firm from the Odisha Gramya Bank, Regional Office, Cuttack. The term loan was to be repaid within 10 years commencing from 1st January, 2015. It is claimed that due to the devastation of the poultry firm caused by the cyclone FANI, the Petitioner could not pay the installments leading to the account having been declared NPA on 31st March, 2018. Subsequently, a demand notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act, 2002') was issued on 19th April, 2021 recalling an outstanding amount of Rs.6, 69,473/- due as on 18th April, 2021 along with interest. The Petitioner is stated to have filed his objection/representation within time to the aforesaid demand notice. It is not clear as to whether any decision was taken upon the said objection. However, the notice dated 7th August, 2021 under Section 13(4) of the Act, 2002 was issued assuming symbolic possession of the mortgaged property.

Subsequently, public notice was issued on 10th August, 2021 for auction of the mortgaged property.

3. By filing the present writ petition, challenge has been laid to the possession notice dated 7/9th August, 2021 on the ground that no decision on the objections filed to the demand notice have been communicated. The grievance in respect of the auction sale notice dated 10th August, 2021 admittedly no longer survives as the auction sale pursuant to the said notice had failed.

4. In view of the fact that the auction sale has failed and the question as to whether the decision has been communicated or not being disputed by the parties, the counsel for the Petitioner prays for permission to withdraw the writ petition with liberty to seek his remedy before the DRT, Cuttack.

5. Counsel for the Bank fairly states that in case the remedy is availed within next four weeks, the question of limitation will not be pressed by the Bank in the light of instant proceedings pending before this Court.

6. Accordingly, this writ petition is dismissed as withdrawn with the aforesaid liberty.

Urgent certified copy of this order be granted on proper application.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Jyostna June, 23rd, 2022
Cuttack