

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.27407 of 2021

Bhagaban Chhotray

....

Petitioner

Mr. Surya Narayan Biswal, Advocate

-versus-

***Authorised Officer, Bank of
India, Bhubaneswar & another***

....

Opp. Parties

Mr. Gurudutta Kar,
Advocate for the Bank

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M. S. RAMAN

Order No.

ORDER (Oral)

15.02.2022

02.

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

2. The petitioner is the defaulting borrower of a housing loan for a sum of Rs.10 lakhs availed on 9th of March, 2015 from Bank of India, Patia Branch, Bhubaneswar. Due to non-payment of three consecutive E.M.Is. @ Rs.16,310/-, the loan account was declared NPA on 31st of March 2017. Thereafter the recovery process under the SARFAESI Act, 2002 was initiated.

3. The petitioner by filing the present writ petition has assailed the e-auction sale notice dated 15th of August, 2021 fixing the auction sale of the mortgaged property, i.e., residential house on 7th of September, 2021.

4. Learned counsel for the Bank states that the aforesaid auction had failed for lack of any bidders. He further submits that subsequently, after following due process of law, the auction sale conducted on 20th of December, 2021 was successful. Upon deposit of the sale price, the sale certificate was issued in favour of the auction purchaser and subsequently a sale deed was also registered on 4th of February 2022.

5. In view of the aforesaid developments, learned counsel for the petitioner prays for permission to withdraw the present writ petition to enable his client to approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act, 2002 for challenging the subsequent auction and the sale deed registered in favour of the auction purchaser.

6. The writ petition is dismissed as withdrawn with the aforesaid liberty.

In case the petitioner approaches the Debts Recovery Tribunal within two weeks from today, the issue of condonation of limitation period shall be sympathetically considered.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

February 15th, 2022
Cuttack

AKK

