

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.27537 of 2021

Jagannath Behera

....

Petitioner

None

-versus-

**Branch Manager, ICICI
Bank, Lewis Road Branch,
Bhubaneswar, District-
Khurda & Others**

....

Opp. Parties

*Mr. Ramachandra Panigrahy, Advocate
for O.P. Nos.1 and 2/ICICI Bank*

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M.S. RAMAN

ORDER (ORAL)

27.09.2022

Order No.

03.

This matter is taken up through virtual/physical mode.

1. Petitioner along with his brothers-coborrowers had raised a Home Loan from ICICI Bank, Lewis Road Branch, Bhubaneswar, for a sum of Rs.10,18,900/- on 30.01.2005 for construction of a House.

2. Due to non-payment of installments, the loan account was declared NPA and a demand notice was issued by the Bank under Section 13(2) of the SARFAESI Act, 2002 recalling the outstanding liability. Subsequently, the ICICI Bank vide Assignment Agreement dated 28.09.2007 irrevocably assigned/ transferred and released all its rights, title and interest including the underlying securities in favour of the Asset Reconstruction Company (India) Limited (ARCIL) in terms of Section 5 of the SARFAESI Act, 2002.

3. By filing the present writ petition, the challenge has been laid to the demand notice dated 24.12.2020 recalling the total outstanding amount of Rs.96,85,198/- due as on 12.12.2020 with interest; with further prayer for directing the O.Ps./Bank to settle the outstanding liability under an OTS Scheme.

4. On the previous date of hearing, none had appeared on behalf of the petitioner and the position is the same today.

5. Mr. Ramachandra Panigrahy appearing for the ICICI Bank/O.P. Nos.1 and 2 submits that after the Home Loan Account along with securities was assigned to ARCIL, the demand notice and further proceedings have been initiated by the ARCIL Company and not by the Bank. Thus, there is no cause of action surviving against the Bank. He further points out that the contesting party would be the ARCIL Company, which has not been impleaded as a party-respondent nor has anyone come forward to pursue the present writ petition.

6. In view of the above, the writ petition is dismissed.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

September 27th 2022
Cuttack