IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P (C) No. 23607 of 2022

Kailash Chandra Satpathy	....	***Petitioner***

Mr. Santosh Kumar Mohanty, Advocate

-versus-

Authorized Officer, Union Bank, Regional Office, Ganjam & Another	....	***Opposite Parties***

Mr. Tuna Sahu, Advocate for Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

<u>ORDER (Oral)</u>
29.09.2022

<u>Order No.</u>

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

1. The Petitioner No.1 (Kailash Chandra Satapathy), is a defaulting borrower, who availed a Housing Loan facility to the tune of Rs.17.00 lakhs on 18th November, 2017 from the Union Bank of India, Bellaguntha Branch, Berhampur, Ganjam, which was to be repaid in 180 months with monthly rests and the Petitioner No.1 is required to deposit EMI fixed @Rs.16,741/-. Due to financial indiscipline, the said loan account was classified as NPA on 31st March, 2021 leading to issuance of notice U/s 13(2) of the SARFAESI Act, 2002 on 9th April, 2021 recalling amount of Rs.20,93,011.44. Non-response of said notice led to assumption of symbolic possession of the secured asset by issuance of notice dated 14th December, 2021.

2. Since there was no repayment of outstanding dues, the auction sale notice was issued on 15th January, 2022, fixing date of auction sale of the secured asset to 17th February, 2022.

3. Challenging the said auction notice, the Petitioner approached this Court in W.P.(C)No. 4375 of 2022, which came to be disposed of on 28th January, 2022 on the basis of submission of the counsel for the Bank that the auction sale fixed for 17th February, 2022 has failed due to non-availability of the intending bidders.

4. Learned counsel for the Petitioner submitted that during the pendency of the said writ petition, interim order dated 17th February, 2022, whereby the Petitioner was directed to deposit a sum of Rs.5.50 lakhs, was not complied with. Accordingly, the said writ petition was dismissed.

5. In order to recover an amount of Rs.29,93,011/- outstanding as on 31st March, 2020, a notice dated 4th July, 2022 was issued specifying therein sale of immovable secured asset by e-auction on 20th July, 2022.

6. In the present writ petition, the Petitioner has challenged the said notice dated 4th July, 2022 with a prayer for a direction to allow the Petitioner to pay back the outstanding loan amount by rephasement or make an settlement offer to regularise the same.

7. Mr. Tuna Sahu, counsel for the Bank submitted that the auction sale fixed for 20th July, 2022 has also failed on account of non-availability of intending bidders and the Petitioner has not even complied with the interim order dated 17th February, 2022 passed in earlier writ petition being W.P.(C) No. 4375 of 2022, thereby non-suiting himself for any further indulgence by this Court.

8. In such view of the matter, we are not inclined to entertain the writ petition and the same is liable to be dismissed. We may further observe that the prayer made in the present writ petition for directing the Bank to sanction OTS is not maintainable in view of the ruling laid down by the Hon'ble Supreme Court in the case of *Bijnor Urban Cooperative Bank Limited, Bijnor and others Vrs. Meenal Agarwal and others* reported in *AIR 2022 SC 56.*

9. The writ petition is dismissed.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Laxmikant September 29, 2022
Cuttack