

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.23946 of 2022

Hemangini Das & Another **Petitioners**

Mr. G. P. Jena, Advocate

-versus-

**Branch Manager, Bank of
Baroda, Badambadi,
Cuttack & Another**

.... **Opp. Parties**

Mrs. Deepika Shukla, Advocate for the Bank

**CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN**

**ORDER (Oral)
12.10.2022**

Order No.

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

1. Petitioner-Smt. Hemangini Das is the proprietor of M/s. P. K. Pharmaceuticals, who had availed four loans i.e. a Cash Credit facility with a limit of Rs.1,50,00,000/-, BGECL facility for a sum of Rs.29,00,000/-, FITL facility for a sum of Rs.16,17,000/- and Housing Loan facility for a sum of Rs.24,50,000/- on different periods of time from Bank of Baroda, Mahatab Road Branch, Cuttack. All the four aforesaid loan accounts were classified as NPA due to financial indiscipline on 28th September, 2021 leading to issuance of a Demand Notice dated 30th September, 2021 under section 13(2) of the SARFAESI Act, 2002 (for short, "the Act, 2002") recalling an outstanding liability of Rs.2,19,94,448/- due as on the said date. Subsequently, the symbolic

possession of the collateral securities were assumed on 7th December, 2021 by issuance of a Notice under Section 13(4) of the Act, 2002. The Bank then published an auction Sale Notice dated 11th September, 2022 fixing the auction date of the collateral securities for 28th September, 2022.

2. The petitioner by filing the present Writ Petition has laid challenge to the aforesaid auction proceedings on the ground that a clear cut 15 days personal notice was not served upon the petitioners/borrowers.

On this short ground, the Bank was directed to file an affidavit answering the aforesaid factual situation.

3. At the time of hearing today, an affidavit dated 11th October, 2022 of Sri Gouranga Ch. Jena, Sr. Manager, Bank of Baroda, Mahatab Road Branch, Cuttack has been filed wherein it is stated that the personal notice was also sent to the proprietorship concern through e-mail on 13th September, 2022 notifying the auction sale fixed for 28th September, 2022 towards the requirement of issuance of the personal notice apart from the same having been published in the newspapers. He thus submits that the service having been effected in terms of Rule 3 of the Security Interest (Enforcement) Rules, 2002, the notice of personal service issued through the

electronic mode removes the entire basis of maintaining the present Writ Petition.

5. At this stage, learned counsel for the petitioners in view of the auction fixed for 28th September, 2022 having already failed for lack of any intending bidder, prays for permission to withdraw the Writ Petition.

6. In view of the above, the Writ Petition is dismissed as withdrawn.

