

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.24273 of 2022

Nagendra Kumar Sendha

.... Petitioner

Mr. Agasti Kanungo, Advocate

-versus-

***Authorized Officer, Odisha
Gramya Bank, Regional
Office, Acharya Market
Complex, Chndikhol,
Jajpur and Another***

.... Opp. Parties

Mr. Tuna Sahu,
Advocate for the Bank

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

**ORDER (Oral)
15.11.2022**

Order No.

(Hybrid Mode)

- 02.** 1. The petitioner is a defaulting borrower of a Cash Credit facility availed from Odisha Gramya Bank, Chhaita Branch, Jajpur for a limit of Rs.5 Lakh on 7th June, 2012. To secure the loan facility, the petitioner had mortgaged his immovable property and also submitted a Deed of Guarantee executed by Asit Kumar Nayak-Guarantor. Due to non-servicing of the account, the same was classified as NPA on 30th June, 2017 leading to issuance of a Demand Notice dated 26th July, 2022 under Section 13(2) of the SARFAESI Act, 2002 (for short, “the Act, 2002”) recalling the outstanding liability of Rs.6.14 Lakhs (approximately) due on the said date plus future interest.

2. By filing the present Writ Petition, challenge has been laid to the aforesaid Demand Notice dated 26th July, 2022, with a further prayer for directing the Bank to settle the same under the OTS policy.

3. Mr. Tuna Sahu, learned counsel appearing for the Bank submits that it is a settled law that challenge to the Demand Notice is not maintainable as also no direction can be issued to the Bank for settling the amount as offered by the petitioner *de hors* the commercial discretion available with the Bank under the regular OTS policy. He further submits that in case, the petitioner approaches the Bank with a viable offer, the same can be considered keeping in view the interest of both the parties.

4. In view of the above, learned counsel for the petitioner prays for permission to withdraw the present Writ Petition to enable the petitioner to seek his available remedies in accordance with law. Accordingly, the same is dismissed as withdrawn with the aforesaid liberty.

(Jaswant Singh)
Judge

(M.S. Sahoo)
Judge