IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.24372 of 2022

Priyanka Das .... ***Petitioner***

Mr. P.K. Parida, Advocate

-versus-

Authorised Officer (H.D.F.C.) Housing Development Finance Corporation Limited, Bhubaneswar and Another .... ***Opp. Parties***

Mr. Satya Mohanty, Advocate for the Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. RAMAN

ORDER (Oral)

Order No. **12.10.2022**

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

1. It transpires that Mrs. Itishree Das and her husband Pravakar Das had availed loan facilities from H.D.F.C. Limited, Canteen Square Branch, Bhubaneswar way back in the year 2004-05. Due to non-payment of installments the loan account was declared NPA and a demand notice issued on 18.06.2012 under Section 13(2) of the SARFAESI Act, 2002 recalling the outstanding liability of Rs.7,83,814/- due as on 31.05.2012.

2. Mrs. Itishree Das died on 11.01.2014 and her husband Pravakar Das died on 03.06.2017 leaving behind their two major daughters, namely, Priyanka Das (petitioner) and Alaka Das and a minor son

Rishikesh Das as is evident from the legal heir certificate dated 26.10.2017 (Annexure-3) attached with the writ petition.

3. Priyanka Das, one of the LRs, by filing the present writ petition has laid challenge to the notice dated 05.09.2022, whereby advance notice has been given to both the borrowers i.e. the dead parents for removing the articles from the Secured Asset and handed over peaceful and vacant possession of the same.

4. The primary submission is that the notice is bad having been issued against two dead persons. At the time of hearing, Mr. Satya Mohanty, learned counsel appearing for the Bank submits that the impugned notice be treated as withdrawn with liberty to the Bank to proceed afresh against the legal heirs of the borrowers in accordance with law.

5. In view of the stand of the Bank withdrawing the impugned notice, learned counsel for the petitioner concedes that nothing more survive for adjudication.

6. In view of the above, the writ petition is dismissed as withdrawn. The Bank is free to proceed against the LR's of the borrowers in accordance with law. Simultaneously, the LR's are also free to approach the Bank for an amicable settlement under prevailing OTS Scheme, if any.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

Basudev

12th October, 2022
Cuttack