

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.25544 of 2022

**M/s. Shiba Shakti
Filaments**

.... Petitioner

Mr. Sidhartha Mishra, Advocate

-versus-

**Branch office, Oriental
Bank of Commerce,
Basudevpur, District-
Bhadrak & Others**

.... Opp. Parties

Mr. Anjan Kumar Biswal, Advocate for the Bank

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

**ORDER (Oral)
12.10.2022**

Order No.

02.

This matter is taken up through virtual/physical mode.

1. The petitioner is stated to have availed a Term Loan of Rs.43 Lakhs and a Cash Credit facility with a limit of Rs.8 Lakhs from the Oriental Bank of Commerce, Basudevpur Branch, District-Bhadrak (subsequently merged with Punjab National Bank) on 24th January, 2013. Due to financial indiscipline, both the loan accounts were classified as NPA on 1st February, 2017 leading to the issuance of a Demand Notice under Section 13(2) of the SARFAESI Act, 2002 (for short, "the Act, 2002") on 12th April, 2017 recalling an outstanding liability of Rs.49.19 Lakhs.

2. The prayer in the present Writ Petition is for quashing the auction Sale Notice dated 22nd August, 2022 (Annexure-4) fixing the auction sale of the

collateral securities on 28th September, 2022; with a further prayer for issuance of a mandamus for reviving the sanctioned OTS vide memo dated 31st March, 2022 (Annexure-2).

3. At the outset, learned counsel for the Bank appearing on advance notice submits that the auction sale fixed for 28th September, 2022 did not attract any intending bidder and thus failed. In respect of the sanctioned OTS, he submits that for an outstanding liability of more than Rs.42 Lakhs, a settlement amount of Rs.30 Lakhs was agreed vide sanction letter dated 31st March, 2022 (Annexure-2), whereby upon deposit of upfront amount of Rs.4.5 Lakhs, the remaining balance was to be paid within 90 days from the date of the sanction i.e. by 30th June, 2022. He submits that the petitioner apart from the upfront amount required for invoking the sanction has not deposited any amount and therefore no indulgence can be shown by extending the period.

4. Learned counsel for the petitioner has prayed for extension of time only on sympathetic grounds, which we are afraid that we cannot accept in view of the scheme of the Act and the contractual nature of the sanctioned OTS. No doubt, the Court in exercise of its jurisdiction under Article 226 can in a given case based on the *bona fides* of the claimant extend

the time, however none of such reasons exist in the present Writ Petition.

5. In view of the above, we find no grounds to invoke our writ jurisdiction and accordingly the Writ Petition is dismissed.

**(Jaswant Singh)
Judge**

**(M.S. Raman)
Judge**

Sipun

12th October, 2022
Cuttack

