IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.26084 of 2022

Kisore Chandra Sahu .... ***Petitioner***

Mr. S.K. Ray, Advocate

-versus-

Managing Director, UCO Bank, Kolkata (West Bengal) and Another .... ***Opp. Parties***

Mr. B.B. Swain, Advocate for the Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. RAMAN

ORDER (Oral)

Order No. **11.10.2022**

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

1. The petitioner is the guarantor as well as the Managing Director of M/s. KCS Pvt. Ltd., which had availed Cash Credit facilities from UCO Bank, Rourkela Branch running into crores. Due to non-servicing of the Cash Credit loan account, it was classified as NPA on 16.09.2019 with the total outstanding amount notified as Rs.6,73,20,320/-. Thereafter, the recovery process under the SARFAESI Act, 2002 (for short "the Act, 2002") was initiated by issuance of a demand notice dated 17.12.2019 under Section 13(2) of the Act, 2002. Symbolic possession of the collateral securities including the property owned by the petitioner-guarantor was assumed on 19.02.2020.

2. By filing the present writ petition, the petitioner-guarantor has laid challenge to the sale notice dated 23.09.2022, whereby the auction of the collateral securities is fixed for 28.10.2022.

3. Learned counsel for the petitioner states that no doubt the petitioner has already filed a S.A. No.927 of 2021 before the DRT, Cuttack challenging the recovery process and also filed an I.A. challenging this very notice as challenged in the present writ petition, however, due to the Presiding Officer not taking up the matter, present writ petition has been filed. It is stated that the petitioner is willing to pay 60% of the total outstanding as on today amounting to more than Rs.9 crores towards an amicable settlement under the regular OTS.

4. Learned counsel for the Bank on the other hand submits that the present parallel proceedings are not maintainable. He also submits that the petitioner has never seriously put forth his claim for the settlement under the regular OTS. Thus, the present writ petition is only an attempt to delay the recovery process for outstanding liabilities of more than Rs.9 crores.

5. We are persuaded to agree with the arguments of the counsel for the Bank and keeping in view the settled principles of law, we are not inclined to interfere in the matter. The petitioner has already approached the DRT and is free to pursue his remedy in accordance with law.

6. In view of the above, the writ petition is dismissed.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

Basudev

11th October, 2022
Cuttack