

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No. 34159 of 2021

Dinabandhu Nayak

Petitioner

Mr. Prasanta Kumar Satapathy, Advocate

-versus-

Bank of India, represented

Opp. Parties

through its authorized

Officer, Regional Office,

Bhubaneswar and Others

Mr. Tuna Sahu, Advocate for Bank

Mr. L. Samantaray, AGA for OP Nos. 4 & 5

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M. S. SAHOO

ORDER (Oral)

04.01.2022

Order No.

- 05.** 1. This matter is taken up by virtual/physical mode.
2. The Petitioner is a defaulting borrower of Home Loan for a sum of ₹5 lakhs availed in August 2016 from the Bank of India, Jagatsinghpur Branch, Jagatsinghpur. Due to non-payment of installments, the Home Loan account was declared NPA on 31.10.2018.
3. The present Petition has been filed challenging the e-auction of the mortgaged residential property to be held on 28.09.2021.
4. That upon the willingness of the Petitioner, to clear the outstanding liability, this Court on 22.11.2021 has passed the following order:-

“2. 1. This matter is taken up through Hybrid Mode.

2. Heard learned counsel for the parties.

3. Although the auction of the residential house of the petitioner-borrower has been successfully conducted on 28th September, 2021 for recovery of an outstanding liability in the home loan account to the tune of Rs. 4,53,000 + interest and other charges, however, learned counsel submits that the auction purchaser is yet to deposit 75% of the balance amount of the auction price, therefore, a mercy plea is raised for saving his residential house by payment of the entire outstanding amount as on today.

4. Mr. Sahoo, learned counsel for the bank submits that a sum of Rs.5,00,000 (Rupees Five Lakhs) maximum would be due as on today.

5. Issue notice for 13.12.2021.

6. Mr. Tuna Sahoo, learned counsel appears and waives notice on behalf of the Opposing Party Nos. 1, 2, 3 & 6-Bank and Mr. L. Samantaray, learned Additional Government Advocate appears and waives notice on behalf of Opposite Party Nos. 4 & 5-State. Requisite copies of the Writ Petition be served on them during the course of the day.

I.A. No. 15835 of 2021

7. In the event of the Petitioner depositing a sum Rs. 4,00,000/- (Rupees Four lakhs) within four days from today, the issuance of the Sale Certificate to the auction purchaser shall be kept in abeyance.

8. List on 13.12.2021.”

5. Thereafter another order was passed on 21.12.2021, which reads as follows:-

“04. 1. This matter is taken up by virtual/physical mode.

2. Mr. Tuna Sahu, Advocate for Opposite Party Nos. 1, 2, 3 & 6-Bank states that another sum of ₹75,000 due as on 31.12.2021 are required to be paid to close the account of the Petitioner.

3. Counsel for the Petitioner prays for a week adjournment to deposit the aforesaid amount.

4. List on 04.01.2022.”

6. At the time of resumed hearing today, counsel for the Bank concedes that the Petitioner has deposited the entire amount due in the aforesaid Home Loan account, which now stands closed and the auction proceeding held on 28.09.2021 have been dropped. Thus, he submits that the present petition becomes infructuous.

In response, counsel for the Petitioner agrees that nothing more survives for adjudication.

In view of the above, the writ petition is dismissed as infructuous.

(Jaswant Singh)
Judge

(M. S. Sahoo)
Judge

January 4th 2022
Cuttack

AKPradhan