IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.34872 of 2021

Abhaya Kumar Parida .... ***Petitioner***

Mr. Bishnubrata Singh, Advocate

-versus-

Authorized Officer, Union Bank of India, Regional Office, Balasore & Another .... ***Opp. Parties***

Mr. M. Balakrishna Rao, Advocate for the Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (ORAL)

Order No.	**27.09.2022**
07.	This matter is taken up through virtual/physical mode.

1. Petitioner is a defaulter borrower in a Housing Loan account availed for a sum of Rs.20 Lakhs vide sanction letter dated 28.04.2014 from erstwhile Andhra Bank (now Union Bank of India with effect from 01.04.2020).

2. By filing the present writ petition, the prayer essentially is for a direction to recalculate the outstanding liabilities by exempting payment of penal interest and also permit the settling of the loan account under the OTS or in the alternative restructure the loan account.

3. Upon notice, a counter dated 26.12.2021 on behalf of the Bank has been filed.

4. Learned counsel for the parties heard.

It emerges that due to non-deposit of the due installments, the loan account was declared NPA on 31.03.2021 leading to the issuance of a demand notice dated 25.05.2021 under Section 13(2) of the SARFAESI Act, 2002 recalling the outstanding liability of Rs.17,41,452/- due as on 31.03.2021. It is submitted that the penal interest is to be charged in view of the terms and conditions of the contract and in respect of a direction to settle the amount under the OTS it is traced that no such direction can be issued by this Court in the light of a recent Judgment of the Hon'ble Supreme Court in ***Bijnor Urban Cooperative Bank Limited, Bijnor and others Vrs. Meenal Agarwal and others, AIR 2022 SC 56***.

5. On the previous date of hearing on 15.09.2022 the following order was passed:

> "**1.** Learned counsel for the Bank states that the Bank is willing to upgrade the account to the standard account provided the petitioner pays the outstanding amounts of overdue to the tune of Rs.3,70,000/-.
>
> **2.** Learned counsel for the Petitioner prays for time to seek instructions.
>
> **3.** List on 27.09.2022."

6. At the time of resumed hearing today, learned counsel for the petitioner has prayed for more time to deposit the aforesaid amount for getting the account upgraded.

7. We find the prayer to be unreasonable as since the filing of the writ petition on 08.11.2021 the matter has been got adjourned on seven occasions and today being the eighth.

8. In view of the above, we proceed to dispose of the writ petition with liberty to the petitioner to get his account upgraded in terms of the relevant policy framed by the RBI by deposit of the amounts overdue as also liberty to seek his remedy *qua* the recovery process before the DRT under Section 17 of the SARFAESI Act, 2002.

9. The writ petition is disposed of with the aforesaid liberty.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

September 27th 2022
AKK Cuttack