IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 36642 of 2021

Kanchan Prasad …. ***Petitioner***

Proxy counsel Mr. Asish Kumar Mishra on behalf of Mr. Sidhartha Das, Advocate

-versus-

A.O., Union Bank of India, Sambalpur and others …. ***Opp. Parties***

Mr. Sabyasachi Mishra, Advocate for Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. SAHOO

ORDER (Oral)
15.11.2022
Hybrid Mode

Order No.

06. **1.** The petitioner is a defaulting borrower in a housing loan for a sum of Rs.15 lakhs availed in the year 2014 from the Union Bank of India, Jharsuguda Branch. Due to non-payment of the monthly instalment @ Rs.14,000/- per month, the loan account was declared NPA on 27.02.2018 leading to initiation of recovery process under the SARFAESI Act, 2002 by issuing a demand notice on 01.01.2019 recalling the outstanding liability of around Rs. 23 lakhs. Subsequently, the symbolic possession of the mortgaged residential house was assumed on 11.03.2019 by issuance of notice U/s.13(4) of the SARFAESI Act, 2002.

2. By filing the present writ petition, prayer is made for directing the Bank to settle the outstanding liability in six equal instalments by giving six months time.

3. This Court based upon the aforesaid willingness of the petitioner to clear the outstanding liability within some reasonable time, passed the following order on 25.11.2021:-

> ***1.*** *This matter is taken up through Hybrid Mode.*
>
> ***2.*** *Heard learned counsel for the parties.*
>
> ***3.*** *The borrower is before this Court seeking a direction to the bank for settling the outstanding amounts in the home loan by grant of some reasonable time.*
>
> ***4.*** *Issue notice for 8th December, 2021.*
>
> ***5.*** *On our asking, Mr. Sabyasachi Mishra, learned counsel appears and waives notice on behalf of both the opposite parties.*
>
> ***6.*** *Mr. Mishra, learned counsel for the bank submits that there are loan accounts including the home loan account and the outstanding due as on today is around Rs.45,00,000/- (Rupees Forty Five Lakhs).*
>
> ***7.*** *In view of the willingness of the petitioner to pay, we direct the petitioner to deposit a sum of Rs.20,00,000/- (Rupees Twenty Lakhs) before the next date; and an undertaking regarding the modalities of payment of the remaining balance amount within next three months be given by the next date.*
>
> ***8.*** *List this matter on 8th December, 2021."*

4. At the time of resumed hearing today, counsel for the Bank submits that the petitioner except depositing a sum of Rs.10 lakhs, has not deposited any other amount nor furnished his undertaking, although the prayer made in the main petition is for grant of six months time, which in any case expired by May, 2022. He thus submits that the petitioner is not entitled to be shown any indulgence by this Court.

At this stage, counsel for the petitioner prays for some more time, which we are not persuaded to grant.

5. In the aforesaid circumstances of petitioner having not complied with the interim directions passed by this Court & time period prayed for having expired, we find no ground to invoke our equitable jurisdiction under Article 226 of the Constitution.

Accordingly, the writ petition is dismissed.

(Jaswant Singh)
Judge

(M.S. Sahoo)
Judge

November 15th 2022
Cuttack

RRJena/GS