

IN THE HIGH COURT OF ORISSA AT CUTTACK
I.A. No.16659 of 2022 in W.P.(C) No.31539 of 2022

***Pradeep Kumar Mahanta
and Another***

.... ***Petitioners***

Mr. K.P. Mishra, Senior Advocate
with Mr. L. Ray, Advocate

-versus-

***The Chief Manager and
Circle SASTRA Head,
Authorised Officer, Punjab
National Bank of Sastra
Division Balasore Circle,
Balasore and Another***

.... ***Opp. Parties***

Mr. M.K. Mohapatra-1, Advocate for the Bank

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

**ORDER (Oral)
07.12.2022
(Hybrid Mode)**

Order No.

03. I.A. No.16659 of 2022

1. The main case stands adjourned to 17.01.2023 by virtue of the order dated 02.12.2022 which reads as under:-

“1. None has put in appearance on behalf of the petitioner.

Learned counsel for the Bank states that a copy of the Writ Petition has not been supplied to him. He further submits that the Sale Certificate in favour of the auction purchaser stands issued on 27th October, 2022.

2. Due to non-presence of the petitioner, adjourn to 17th January, 2023.”

2. The aforementioned I.A. No.16659 of 2022 has been filed seeking the preponement of date of hearing in the light of the urgency of the matter.

3. For the reasons stated in the application, we allow the I.A and prepone the date of hearing from 17.01.2023 to be taken up today itself.

W.P.(C) No.31539 of 2022

4. Petitioners are the defaulting borrowers, who were facing recovery process under the SARFAESI Act, 2002 (for short “the Act, 2002”) initiated by the Secured Creditor i.e. Punjab National Bank, Keonjhar Branch, Keonjhar for recovery of the outstanding liabilities of more than Rs.32 lakhs due as on day the demand notice was issued on 18.08.2021. The said process has finally culminated into the sale of the mortgaged property offered as a Collateral Security in the E-auction conducted on 26.09.2022 in favour of the highest bidder for a sum of Rs.41 lakhs.

5. The present Writ Petition has been filed challenging the conduct of the auction sale proceedings as also the process of issuance of the Sale Certificate dated 27.10.2022.

6. Mr. K.P. Mishra, learned Senior Counsel submits that the petitioners are prepared to deposit more than 50% of the outstanding liabilities as upfront with the remaining balance in the next three months to enforce their Right of Redemption.

7. Mr. Mohapatra, learned counsel appearing for the Bank submits that the Right of Redemption

cannot partially be enforced and that too in the absence of the auction purchaser who has not been made a party, apart from the proper remedies for the petitioners to place the pleas before the DRT by filing an application under Section 17 of the Act, 2002.

Copy of the Sale Certificate indicating the particulars of the successful auction purchaser has been placed on record and a copy also furnished to the learned counsel for the Bank.

8. Faced with the aforesaid situation, we are not inclined to invoke our writ jurisdiction and accordingly the Writ Petition is disposed of by relegating the petitioners to seek their available remedies before the DRT in accordance with law.

9. In view of the above, the Writ Petition is disposed of.

(Jaswant Singh)
Judge

(M.S. Sahoo)
Judge

Basudev

7th December, 2022
Cuttack