

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.33113 of 2022

Hare Krushna Mandal* *Petitioner

Mr. Arabinda Tripathy, Advocate

-versus-

***Authorised Officer-cum-Chief
Manager, UCO Bank, Zonal
Office, Balasore and Another *Opp. Parties****

Mr. Sunil Swain, Advocate for the Bank

CORAM:

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

ORDER (Oral)

08.12.2022

(Hybrid Mode)

Order No.

- 01.** **1.** The petitioner is stated to have availed a Cash Credit facility for a sum of Rs.6 lakhs from UCO Bank, Bhogarai Branch, Dist- Balasore/Opposite Party No.2 on 21.08.2012. Due to financial indiscipline, the loan account was classified as NPA on 02.11.2013 leading to issuance of a demand notice dated 24.07.2014 under Section 13(2) of the SARFAESI Act, 2002 (for short “the Act, 2002”) recalling the outstanding liabilities of Rs.6,13,190/-. Symbolic possession of the Collateral Security/Mortgaged Residential House was assumed on 13.01.2016 by issuance of a notice under Section 13(4) of the Act, 2002.

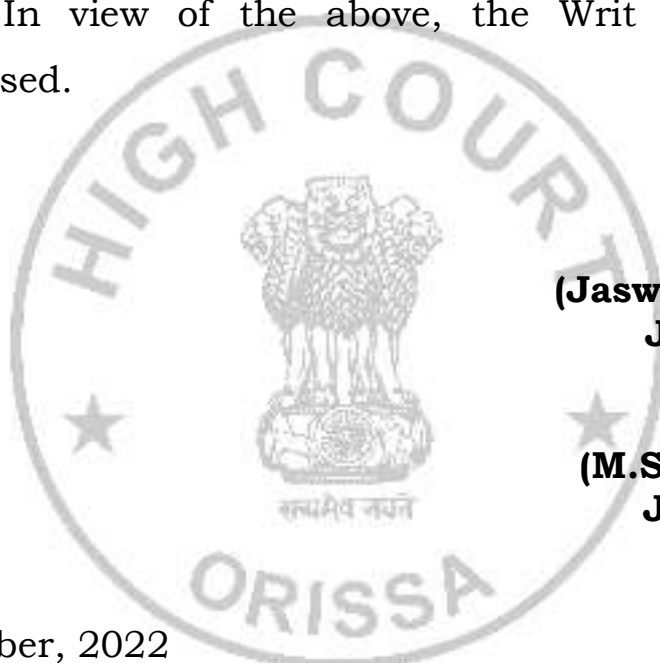
2. The present Writ Petition has been filed challenging the auction sale notice dated 18.11.2022 (Annexure-10), whereby the auction sale of the mortgaged house offered as Collateral Security is fixed for auction sale on 09.12.2022. The further prayer has been made for directing the settlement of the outstanding liability under the prevailing OTS policy.

3. At the outset, learned counsel for the Bank appearing on advance notice submits that there is no prevailing OTS policy. Secondly he submits that on the previous occasion of auction sale fixed for 29.08.2022, this Court on mercy plea had granted interim protection to the petitioner subject to deposit a sum of Rs.19 lakhs on or before the auction date. However, the petitioner had failed to comply with the said directions and did not deposit any amount. He thus submits that the petitioner is not entitled to any indulgence by this Court as it is a ploy to just delay the recovery proceedings, moreso when the outstanding liabilities is now swelled to more than Rs.42 lakhs, thereby causing serious prejudice to the recovery process.

4. Learned counsel for the petitioner still has the audacity, upon instructions to say that the petitioner is prepared to pay.

5. Keeping in view the conspectus of the facts of the case, we are not inclined to invoke our writ jurisdiction in favour of the defaulter, who has not complied with the directions passed by this Court on similar plea on an earlier occasion. Accordingly, the Writ Petition is dismissed relegating the petitioner to seek his available remedy in accordance with law before the DRT, Cuttack.

6. In view of the above, the Writ Petition is dismissed.



(Jaswant Singh)
Judge

(M.S. Sahoo)
Judge

Basudev

8th December, 2022
Cuttack