IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P (C) No. 38916 of 2021

Gyanaranjan Mallick	....	***Petitioner***
		Mr. M. Basu, Advocate

-versus-

Bank of India, Rourkela Branch & Another	....	***Opposite Parties***
		Mr. B.K. Behera, Advocate for the Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
30.03.2022

Order No.

05. **1.** This matter is taken up by virtual/physical mode.

2. The Petitioner is the sole proprietor of M/S Nigam Enterprises and availed a cash credit loan to the tune of Rs.15.00 lakhs from the Bank of India, Rourkela Branch on 7th October, 2015 for his construction business.

3. The Petitioner along with his wife availed another term loan (LAP) for sum of Rs.23.80 lakhs on 18th November, 2017 from the same branch. Due to financial indiscipline, both the loan accounts were classified as NPA on 31st December, 2019, a demand notice U/s 13(2) of the SARFAESI Act, 2002 (for short 'the Act, 2002') was issued on 1st January, 2020 recalling an amount of Rs.22,90,252/- in respect of term loan and also notice under section 13(2) of the Act, 2002 was issued on 2nd January, 2020 demanding an amount of Rs.15,33,186.64 in respect of CC account. The symbolic possession of the collateral security was assumed on 17th March, 2020 by issuance of notice U/s 13(4) of the Act, 2002. The Bank is stated to have filed O.A No.5 of 2021 before the DRT for recovery of the outstanding amounts in both the accounts. The effort of the Bank to sell the mortgaged property in the e-auction conducted on 27th December, 2021 has failed for lack of any bidder. The total outstanding in both the loan accounts is stated to be around Rs.46,24,416/- as on today, whereas the value of mortgaged property stated to be around Rs.59,50,786/-.

4. By filing the present petition, the prayer was for setting aside the e-auction notice dated 26th November, 2021 as also to provide an opportunity for availing settlement under an OTS Scheme.

5. The first prayer has become infructuous in view of the auction having failed, whereas *qua* the second prayer no OTS policy has been placed on record.

6. At the time of hearing, Mr. M. Basu, counsel for the Petitioner files a memo in Court today, which is taken on record indicating that in the meantime, the Petitioner has taken steps for settling his loan account with the Bank for which the writ petition being infructuous may be permitted to be withdrawn.

7. In view of the memo filed, the writ petition stands dismissed as withdrawn.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Laxmikant March 30th, 2022
Cuttack