

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.38958 of 2021

Narendra Pradhan

....

Petitioner

Mr. R. Achary, Advocate

-versus-

**Regional Manager, Central Bank
of India, Bhubaneswar & Another**

....

Opposite Parties

Mr. Tuna Sahu, Advocate
(for bank)

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. SAHOO

Order No

ORDER (Oral)
04.01.2022

- 3.** 1. This matter is taken up through Hybrid Mode.
2. The Petitioner is the defaulting borrower who had availed a cash credit facility to the tune of Rs.12,40,000/- (Rupees Twelve Lakhs Forty Thousand) for business purposes on 28th August, 2014 from the Central Bank of India, Pradhan Sahi Branch, Bhubaneswar.
3. Due to default in servicing the account, it was declared NPA on 24th November, 2018. A Demand Notice under Section 13(2) of the SARFAESI Act, 2002 (In short, "The Act, 2002) was issued on 3rd December, 2018 seeking to recall a sum of Rs.13,28,478/- + interest and expenses as on 3rd of December, 2018. Symbolic possession was taken on 8th March, 2019 by issuance of a notice under Section 13(4) of the Act, 2002. E-Auction sale notice dated 8th November, 2021 was issued notifying the auction sale of the mortgaged properties on 29th November, 2021. The auction sale was successful with an amount of Rs.38,90,000/- (Rupees Thirty Eight

Lakhs Ninety Thousand), declared as the highest bidder.

4. It transpires that the Petitioner had filed W.P.(C) No.36758 of 2021 challenging the auction fixed for 29th November, 2021, which was disposed of vide order dated 29th November, 2021, whereby the offer proposal for an OTS subject to the Petitioner depositing a sum of Rs.5,00,000/- (Rupees Five Lakhs) was to be considered.

5. Since the OTS proposal so tendered was rejected vide order dated 3rd December, 2021, the present petition has been filed.

6. Keeping in view the stand of the Petitioner to deposit the entire outstanding dues within a period of fifteen days, this Court passed the following order on 16th December, 2021.

"1. This matter is taken up through hybrid mode.

2. The defaulting borrower is before this Court seeking to set aside the order dated 03.12.2021, whereby the Bank has rejected the proposal offered by the Petitioner for an amicable settlement.

3. At the time of hearing, counsel for the Petitioner submits that his client is ready and willing to deposit the entire amount due in the defaulted NPA account provided 15 days time granted from today.

4. Counsel for the Bank does not dispute that the ₹5 lakhs deposited in terms of the Court's order dated 29.11.2021 passed in WP(C) No. 36758 of 2021 has not been taken into account while notifying the full amount outstanding around ₹20,90,614 + interest + other charges to be paid by 18.12.2021. He further, upon instructions does not have any objection, if the Petitioner deposits the entire amount due with interest within 15 days subject to some amount of interest as compensation to be paid to the auction purchaser, who has deposited the entire sale consideration.

5. List on 04.01.2022 for further consideration.

6. The Petitioner is directed to deposit a sum of ₹18 lakhs subject to adjustment on or before 31.12.2021. The Bank is directed to keep the issuance of sale certificate in abeyance till next date.”

7. Learned counsel for the bank at the outset submits that the Petitioner has not deposited the amount of Rs.18,00,000/- (Rupees Eighteen Lakhs) in compliance of the order dated 16th December, 2021 and the bank is suffering severe prejudice for recovery of its outstanding amounts inspite of a successful bid having been received on 29th November, 2021.

8. Learned counsel for the Petitioner has prayed for fifteen days more time for depositing of Rs.18,00,000/- (Rupees Eighteen Lakhs), which we are not persuaded to accept, keeping in view the facts of the case.

9. We further find that the rejection of the OTS proposal also to be in tune within the bank's policy. The petitioner had been granted one opportunity to clear the outstanding amounts vide the said rejection order dated 3rd December, 2021 and subsequently by this Court vide order dated 16th December, 2021 which he has failed to avail. No further indulgence can be extended.

10. Accordingly, the Writ Petition is dismissed.

(Jaswant Singh)
Judge

(M. S. Sahoo)
Judge

January 4th, 2022
Cuttack.

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