IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.39112 of 2021

Rasakanta Baral and another	....	***Petitioners***
		Mr. S.K. Das, Advocate
-versus-		
Union of India and others	....	***Opp. Parties***
		Mr. P.K. Parhi, ASGI for Union of India

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)

Order No.

22.03.2022

04. 1. This matter is taken up through virtual/physical mode.

2. Two Petitioners are the defaulting borrower of housing loan availed in the year, 2013 for a sum of Rs.44,00,000/- from the Indian Overseas Bank, Cuttack Road, Cuttack. Due to non-payment of due installments, the loan account was classified as NPA on 30th November, 2018. By filing the present writ petition, challenge has been made to the demand notice dated 24th November, 2021 issued under Section 13(2) of the SARFAESI Act, 2002 (for short, "Act, 2002"), whereby the outstanding liabilities to the tune of Rs.46,49,800/- due on the said date have been recalled. The further prayer is for directing the bank to offer benefit of the OTS Scheme.

3. After hearing counsel for the Petitioners, we find no grounds to invoke our writ jurisdiction.

4. Firstly, no challenge to the notice under Section 13(2) of Act, 2002 simpliciter is maintainable as per the provisions of proviso to sub-section (3A) of Section 13 of Act, 2002.

Secondly, in the light of recent judgment of the Hon'ble Supreme Court in the case of ***The Bijnor Urban Cooperative Bank Limited, Bijnor and others –v- Meenal Agarwal and others,*** reported in AIR 2022 SC 56, no mandamus can be issued to the bank to accept an OTS proposal. Even otherwise, it is well accepted that there is no OTS available in the home loan accounts.

5. In view of the above, this writ petition is dismissed.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Jyostna March 22nd, 2022
Cuttack