IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.40768 of 2021

Tapan Kumar Behuria .... ***Petitioner***
Mr. Satrughna Dash, Advocate

-versus-

Chairman, Indian Overseas Bank, Chennai and others .... ***Opp. Parties***
Mr. Gurudutta Kar, Advocate for Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
15.02.2022

Order No.

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

2. Upon notice, Mr. Gurudutta Kar, learned counsel for the Bank appears.

3. Mr. Dash, learned counsel for the Petitioner and Mr. Kar, learned counsel for the Bank have been heard at length.

4. The Petitioner is a defaulting borrower of housing loan for a sum of Rs.5 lakhs raised on 13th June, 2012 from the Indian Overseas Bank, Uadaypur in the district of Jajpur. By filing the present writ petition, he has challenged the e-auction sale notice fixing the date of the auction sale of the mortgaged residential house on 28th December, 2021; prayer has also been made for rephasement of the loan amount with easy installments for settlement under the OTS Scheme.

5. It emerges that for non-payment of installments, the home loan account was declared as NPA on 31st March, 2015. The demand notice under Section 13(2) of the SARFAESI Act, 2002 (for short '2002 Act') was issued on 27th June, 2015 recalling the outstanding amount and thereafter symbolic possession was assumed on 11th September, 2015

by issuance of notice under Section 13(4) of the 2002 Act. The mortgaged property/co-lateral security was unsuccessfully put to auction on 7th October, 2016, 21st February, 2019, 14th May, 2019 and finally on 21st December, 2021. It is admitted that no bidders participated in the said auctions and a sum of Rs.7.5 lakhs is stated to be due as on 8th February, 2022 after adjusting the amounts deposited in compliance of the directions passed by this Court or otherwise.

6. Mr. Kar, learned counsel for the Bank states that in the light of no bidders coming forward, the decision is being taken to sell the property by way of private party as per the Rule 8(5) of the SARFAESI Rules, 2002. In view of the pointed query to the learned counsel for the Petitioner regarding payment of any amounts to prevent such a sale, no proposal for deposit has been offered. It is also a conceded case that there was/is no OTS Scheme available for settlement of home loan accounts. Learned counsel for the Petitioner has also failed to show any policy permitting the rephasement of the Home loan account.

7. In view of the above, we find no grounds to invoke our writ jurisdiction under Article 226 of the Constitution.

Accordingly, this writ petition is dismissed.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Jyostna