IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.40827 of 2021

Sabita Sahoo .... ***Petitioner***

Mr. Ashok Kumar Behera, Advocate

-versus-

Branch Manager, UCO Bank, Barabati Branch, Jajpur & Another .... ***Opp. Parties***

Mr. B.N. Udgata, Advocate for the Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. RAMAN

ORDER (Oral)

Order No. **16.02.2022**

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

2. The Petitioner-Sabita Sahoo along with her husband Santosh Kumar Sahoo had availed a Housing Loan for Rs.2,90,000/- from UCO Bank, Barabati Branch, Dist-Jajpur on 13th December, 2005. To secure the loan, the house was accepted as a co-lateral security and the equated monthly installments of Rs.6,500/- were required to be paid from July 2007 till July 2013. Due to non-payment of the installments, the loan was classified as NPA and recovery process under the SARFAESI Act, 2002 (for short "the Act, 2002") initiated by issuance of demand notice dated 7th May, 2019 under Section 13(2) of the Act, 2002. The petitioner claimed to have filed objections to the demand notice. The bank thereafter proceeded to assume symbolic possession of the mortgaged house by issuance of notice under Section 13(4) of the Act, 2002 on 3rd December, 2021.

3. By filing the present writ petition, the challenge has been laid to the notice issued under Section 13(4) on the ground that the objections to the demand notice were never considered and communicated.

4. Upon the asking of the Court, the learned counsel for the Bank was directed to file an affidavit in respect of the aforesaid factual contention.

5. An affidavit dated 9th February, 2022 by Smt. Subhasmita Senapati, Senior Branch Manager stands filed, wherein it is specifically averred that no objections to the demand notice were filed, and no material is available to disbelieve the stand except a self serving bald averment of the petitioner. It is further averred that as on 25th December, 2021 the outstanding amount is Rs.6,90,000/-. It is also an accepted undisputed fact that there is no OTS scheme available for the Housing Loans.

6. After arguing for some time and having failed to convince the Court on merits, learned counsel for the petitioner prays for permission to withdraw the writ petition to enable his client to seek his remedy in accordance with law.

7. In view of the above, the writ petition is dismissed as withdrawn with the aforesaid liberty.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

February 16th, 2022
Cuttack

Basudev