IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.41310 of 2021

Usha Devi .... ***Petitioner***

Mr. Biswajit Nayak, Advocate

-versus-

Chief Manager-cum-Authorised Officer, UCO Bank, Rourkela .... ***Opp. Party***

Mr. Bibhuti Bhusan Swain, Advocate for the Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)

Order No. **07.04.2022**

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

2. The petitioner is a defaulting borrower of a Housing loan for a sum of Rs.30 lakhs availed from UCO Bank, Rourkela Branch on 22nd January, 2012.

3. On the previous date of hearing on 11th March, 2022 the following order was passed:-

> "**1.** This matter is taken up through virtual/physical mode.
>
> **2.** The petitioner is stated to have availed a Housing loan of Rs.30,00,000/- on 22.01.2012. After declaration of the account as NPA the loan account was upgraded on 30.03.2017 upon payment of the amounts overdue. Due to non-payment of further installments, the loan account was declared NPA on 31.05.2017. A Demand Notice under Section 13(2) of the SARFAESI Act, 2002 (for

short "the Act, 2002") was issued on 01.06.2017 recalling the outstanding liability of Rs.30,83,910/- as on 30.04.2017. The symbolic possession is stated to have been assumed on 15.02.2018 under Section 13(4) of the Act, 2002.

It transpires that the Bank had filed an Original Application before the Debts Recovery Tribunal, Cuttack bearing O.A. No.29 of 2018 seeking to recover the outstanding amounts, which was decreed and admittedly execution proceedings before the Recovery Officer bearing R.A. No. 30 of 2019 is stated to be pending.

3. Learned counsel for the Bank submits that as of now the total outstanding is Rs.62,72,179.85.

4. Learned counsel for the petitioner submits that his client is prepared to deposit a substantial amount upfront and the remaining balance within next three months in order to save his residential property.

5. Learned counsel for the Bank is not averse to such a recourse in spite of the recovery proceedings pending.

6. Issue notice for 07.04.2022 for the limited purpose of clearing the arrears.

Mr. Bibhuti Bhusan Swain, learned counsel appears and waives off notice on behalf of the Opposite Party. Let a copy of the writ petition be served on him.

7. Let the petitioner deposit a sum of Rs.30,00,000/- (Rupees thirty lakhs) only on or before 22.03.2022 along with an undertaking to deposit the remaining balance within next three months."

4. At the time of hearing today, it is conceded that a sum of Rs.30 lakhs in compliance of the aforesaid order dated 11th March, 2022 stands deposited.

5. Learned counsel for the petitioner states that the amounts of outstanding liability actually less than what has been projected before this Court. He further states that the execution proceedings before the Recovery Officer for execution of a decree passed by the DRT, Cuttack are pending and the petitioner wishes to pursue his remedy in the said execution with appropriation of the aforesaid Rs.30 lakhs deposited towards fulfillment of the decreetal amount. He further prays for permission to withdraw the writ petition to which the learned counsel for the Bank has no objection.

6. In view of the above, the writ petition is disposed of as withdrawn with permission to the petitioner to pursue his remedy in the execution proceeding.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

Basudev

April 7th, 2022
Cuttack