
(2022) 11 OHC CK 0165

In the Orissa High Court

Case No : Writ Petition (C) No. 19676 Of 2014

Ashis Kumar Nayak

APPELLANT

Vs

Reserve Bank Of India, Regional Office, Bhubaneswar,
Districtkhurda & Others

RESPONDENT

Date of Decision : 21-11-2022

Acts Referred:

Securitisation and Reconstruction of Financial Assets and Enforcement of Security
Interest Act, 2002 — Section 13(2)

Citation : (2022) 11 OHC CK 0165

Hon'ble Judges : Jaswant Singh, J;M.S. Sahoo, J

Bench : Division Bench

Advocate : Jyoti Ranjan Behera, J.M. Pattnaik

Final Decision : Dismissed

Judgement

1. Petitioner is a Proprietor of M/s. Joy Traders and had availed Cash Credit facility to the tune of Rs.65 lakhs from Punjab National Bank, Chandrasekharapur Branch, Bhubaneswar in May, 2013. To secure the loan, two immovable properties were mortgaged. Due to non-servicing of the C.C. Loan Account, it was classified as NPA on 26.07.2014 leading to a demand notice dated 30.07.2014 (Annexure-4) issued under Section 13(2) of the SARFAESI Act, 2002 recalling the outstanding liability of Rs.68,71,784/- as on 26.07.2014 along with future interest and expenses. Subsequently a notice dated 07.10.2014 (Annexure-7) was issued by the Bank calling upon the petitioner to deliver possession of the secured asset on or after 23.10.2014 at any time during the working hours.

2. It is the aforesaid two notices Annexure-4 and Annexure-7 which are the subject matter of challenge before this Court.

3. This Court while issuing notice vide order dated 17.10.2014, passed the following directions in the Miscellaneous Application filed along with the writ petition:

"Heard.

It is directed that no coercive action shall be taken against the petitioner nor he shall be dispossessed from the property in question subject to his depositing a sum of Rs.8,00,000/- (rupees eight lakh) within a period of six weeks from today before the concerned authority.

The Misc. Case is disposed of accordingly. "

4. A reply dated 18.11.2014 stands filed on behalf of the contesting Bank, wherein inter alia it is submitted that the petitioner has suppressed the fact of his fraudulent act of disposing of one of the mortgaged properties without seeking permission or bringing it to the notice of the Bank. It is thus submitted that the petitioner is not entitled to seek any indulgence from this Court.

5. At the time of hearing, learned counsel for the petitioner states that he has no instructions in respect of the payment made, if any, by the petitioner pursuant to the aforesaid interim orders nor do he/they have instructions to pursue the matter any further. He states that he has no objection if the present writ petition is dismissed based on the material on record.

6. In view of the above, we find that the petitioner is not entitled to any indulgence by this Court by invoking our equitable writ jurisdiction. The Writ Petition is accordingly dismissed.

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