
(2022) 11 OHC CK 0024

In the Orissa High Court

Case No : Writ Petition (C) No.12076 Of 2022

Jogeswar Nayak @ Naik

APPELLANT

Vs

Punjab National Bank & Others

RESPONDENT

Date of Decision : 02-11-2022

Acts Referred:

Citation : (2022) 11 OHC CK 0024

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

Bench : Division Bench

Advocate : Asish Mishra, Rashmi Pradhan, Anjan Kumar Biswal

Final Decision : Dismissed

Judgement

This matter is taken up through virtual/physical mode.

1. Petitioner has filed the present writ petition challenging the sale notice dated 27.04.2022 issued by the Authorised Officer of the Punjab National Bank, Budharaja Branch, Sambalpur, whereby the mortgaged property recorded in the name of Bhola Naik, who happens to be the grandfather of the petitioner, is being put for auction sale on 31.05.2022 for recovery of the outstanding dues for a sum of Rs.4,60,000/- approximately due as on 31.03.2021 in the account of the defaulting borrower-M/s. Hari Shankar Enterprises, a Proprietorship concern of Shri Sunil Kumar Agarwal. It is claimed that the father of the petitioner has illegally offered the aforesaid ancestral property as collateral security to secure the loan taken by the proprietorship concern.

2. INTER ALIA it is submitted that the land is wrongly recorded in the name of Bhola Naik in the revenue records although he had passed away on 04.07.1982 and the application filed by the petitioner for correction of the revenue records is pending before the authority concerned. The ancillary prayer made in the writ petition is for a declaration of the mortgaged deed executed by the father of the petitioner/O.P. No.4 as illegal and not binding on the share of the petitioner in the said ancestral property.

3. Miss Rashmi Pradhan appearing for the Bank submits that as regards the prayer for challenging the sale notice, it has become infructuous in view of the auction sale fixed for 31.05.2022 having failed for lack of any intending bidders. She further states that in respect of the other prayer, the petitioner is required to approach the appropriate forum for seeking such a declaration.

4. In view of the above, learned counsel for the petitioner prays for permission to withdraw the writ petition to enable the petitioner to seek his available remedies in accordance with law.

5. The writ petition is dismissed as withdrawn with the aforesaid liberty.

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