(2022) 07 OHC CK 0083

In the Orissa High Court

Case No : Writ Petition (C). No. 27357 Of 2021

Niranjan Kumar Sena APPELLANT

Vs

Authorized Officer Union Bank Of India, Regional Office, Cuttack & Another RESPONDENT

Date of Decision : 14-07-2022

Acts Referred:

Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 — Section 13(2), 13(4), 14

Citation : (2022) 07 OHC CK 0083

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

Bench : Division Bench

Advocate : S.K. Baral, Anshuram Mishra

Final Decision : Disposed Of

Judgement

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

2. The Petitioner is a defaulting borrower of a term loan availed for a sum of Rs.7,97,495/- on 28th November, 2013 from Union Bank of India, Jagatpur Branch, Jagatpur. Due to financial indiscipline, the loan account was declared as NPA on 14th December, 2015 and the demand notice under Section 13(2) of the SARFAESI Act, 2002 (for short "the Act, 2002") was issued on 29th June, 2016, recalling an outstanding liability around Rs.7,72,000/-. The symbolic possession of the two mortgaged properties was assumed on 12th September, 2016 by issuance of a notice under Section 13(4) of the Act, 2002. Pursuant to the order dated 22th December, 2016 passed by the Collector & District Magistrate, Cuttack on an application under Section 14 of the Act, 2002, the actual physical possession was taken on 4th October, 2021 for official assistance. Thereafter, the mortgaged properties were to be put to auction sale on 15th September, 2021 vide E-auction sale notice was issued on 23rd August, 2021.

3. In the instant writ petition, it is the sale notice dated 23rd August, 2021 which has been assailed.

4. Upon notice, counter has been filed on behalf of the Bank. It is apparent that upon deposit of sum of Rs.2.00 lakhs in compliance of the interim order passed by this Court on 11th October, 2021, the physical possession was restored to the Petitioner.

5. Counsel for the Bank submits that apart from the aforesaid amount, the Petitioner had deposited another sum of Rs.2.00 lakhs in compliance of the order dated 9th September, 2021, however, the auction fixed for the said date had failed for want of any bidders. It transpires that apart from the aforesaid two amounts some more payments have been made. It is also further cleared that the OTS offer made by the Petitioner in compliance of the direction passed by this Court has been considered and rejected in view of the realizable value of the secured asset being much more than the outstanding liability.

6. Counsel for the Petitioner states that no doubt the prayer made in the present writ petition has been rendered infructuous in view of the aforesaid circumstances. However, the Bank has proceeded to issue a fresh auction sale of the mortgaged properties on account of the outstanding liabilities of more than Rs.7.00 lakhs, for which the Petitioner would have to file a fresh writ petition.

7. In view of the aforesaid developments, the present writ petition is disposed of as infructuous.

Issue urgent certified copy as per rules.

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