

(2022) 08 OHC CK 0088
In the Orissa High Court
Case No : Writ Petition (C) No. 11225 Of 2013

Pranab Kumar Das Pattnaik

APPELLANT

Vs

Dena Bank, Bhubaneswar Branch, Bhubaneswar, District
Khurda & Another

RESPONDENT

Date of Decision : 10-08-2022

Acts Referred:

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

Citation : (2022) 08 OHC CK 0088

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

Bench : Division Bench

Advocate : Kalyan Kumar Mohapatra, Ramakant Mohanty

Final Decision : Dismissed

Judgement

1. This matter is taken up through hybrid arrangement (virtual/physical mode).
2. Petitioner was a guarantor for a Cash Credit facility availed by M/s. Seven Hills Overseas Limited, a private company (renamed as M/s. Rektor Mines & Minerals Limited) for a sum of Rs.2 Crores from Dena Bank, Bhubaneswar Branch on 8th September, 2008. The immovable property owned by the petitioner was mortgaged with the Bank as a collateral security.
3. Due to non-servicing of the said loan account, recovery proceedings under the SARFAESI Act, 2002 (for short, "the Act,2002") were initiated by declaring the account as NPA on 8th August, 2011 and thereafter issuance of a Demand Notice under Section 13(2) of the Act, 2002 on 8th August, 2011. Symbolic possession of the secured asset was assumed vide notice dated 24th October, 2011 issued under Section 13(4) of the Act, 2002.
4. Subsequently, an OTS was sanctioned on 30th May, 2012, whereby the borrower was required to deposit a sum of Rs.1,07,51,000/- within a period of three months. Subsequently, the period was extended.

5. It transpires that the full amount in terms of the OTS was not paid and the Bank had filed O.A. No.306 of 2011, wherein vide order dated 22nd February, 2013 was passed based on another compromise with certain terms and conditions stated therein. As the petitioner could still not completely honour the terms and conditions of the compromise, arrived at before the DRT, Cuttack, the present Writ Petition was filed seeking the release of some of the mortgaged property upon deposit of certain portions of the outstanding amount.

6. This Court while issuing notice had granted an interim protection vide order dated 28th June, 2013.

7. At the time of hearing today, learned counsel has filed a memo praying for an unconditional withdrawal of the Writ Petition. The memo be kept on record.

8. In view of the above memo, the Writ Petition is dismissed as withdrawn.

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