(2023) 02 OHC CK 0062

In the Orissa High Court

Case No : Writ Petition (C) No. 34555 Of 2022

Rajendra Kumar Biswal — APPELLANT

Vs

General Manager, Odisha Gramya Bank, Bhubaneswar And Others — RESPONDENT

Date of Decision : 08-02-2023

Acts Referred:

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

Citation : (2023) 02 OHC CK 0062

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

Bench : Division Bench

Advocate : Tuna Sahu

Final Decision : Dismissed

Judgement

1. The petitioner is the defaulting borrower, who had availed a Term Loan for a sum of Rs.4,44,600/-from Odisha Gramya Bank, Dhenkanal Branch, Dist-Dhenkanal. Due to non-payment of the installments, the loan account was classified as NPA on 31.05.2022 leading to issuance of a Demand notice dated 08.06.2022 under Section 13(2) of the SARFARSI Act, 2002 (for short "the Act, 2002") recalling the outstanding liability of Rs.4,16,123/- due as on 08.06.2022 together with future interest and expenses etc. The symbolic possession of the mortgaged property offered as Collateral Security was assumed on 26.08.2022 by issuance of notice under Section 13(4) of the Act, 2002.

2. The challenge in the present Writ Petition is to the E-auction sale notice dated 13.12.2022 fixing the auction sale of the mortgaged property on 11.01.2023.

3. Upon willingness of the petitioner to clear the entire outstanding liability, this Court on 04.01.2023 passed the following order:-

"1. It is contended for an outstanding liability of around Rs.4,50,000/-, the sole residential house of the petitioner with the reserve price of around

Rs.11,00,000/- is being put to auction on 11.01.2023 by the Bank.

2. Learned counsel for the petitioner states that the petitioner is prepared to deposit a sum of Rs.2,50,000/- as upfront money and the remaining balance to be deposited within next four months.

3. Issue notice for 8th February, 2023. Mr. Sandeep Mishra, learned counsel appears on behalf of Mr. Tuna Sahu, learned counsel for the Bank and waives of notice. Requisite number of copies of the writ petition be served upon him.

4. As an interim measure, subject to the petitioner depositing a sum of Rs.2,30,000/- on or before 11.01.2023 along with an undertaking to pay the remaining balance by way of installments within next four months, the successful bid, if any, shall not be confirmed without the leave of the Court.

Urgent certified copy of this order be granted on proper application."

4. At the time of resumed hearing today, none has appeared on behalf of the petitioner, whereas learned counsel for the Bank submits that the petitioner did not comply with the directions to deposit Rs.2.3 lakhs. He further points out that the auction fixed for the said date has also failed due to lack of any intending bidders, thereby rendering the present Writ Petition as infructuous.

5. In view of the above, the Writ Petition is dismissed as infructuous.

………………………………..

