(2022) 07 OHC CK 0039

In the Orissa High Court

Case No : Writ Petition (C) No.4143 Of 2013

Sankar Moharana APPELLANT

Vs

Chief Manager, UCO Bank, Zonal Office, Cuttack And Another RESPONDENT

Date of Decision : 07-07-2022

Acts Referred:

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

Citation : (2022) 07 OHC CK 0039

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

Bench : Division Bench

Advocate : Bibhuti Bhusan Mishra, M. Basu

Final Decision : Dismissed

Judgement

1. This matter is taken up through hybrid arrangement (virtual/physical mode).

2. The petitioner is stated to have availed a Cash Credit loan facility from UCO Bank, Cuttack Main Branch, for a sum of Rs.1 Lakh and a Term Loan of Rs.4 Lakhs in the year 2010-2011. Due to non-servicing of the C.C. loan account and non-payment of installments in the Term Loan account, both the accounts were declared as NPA leading to the issuance of a Demand Notice dated 10th October, 2012 under Section 13(2) of the SARFAESI Act, 2002 recalling a total outstanding amount of Rs.5,17,665/-along with interest and incidental charges due as on 31st August, 2012. The recovery process led up to issuance of the auction notice dated 12th January, 2013 fixing the auction sale of the secured assets/mortgaged property on 2nd March, 2013. It is this notice, which has been assailed before this Court without laying down any legal basis for sustaining the challenge.

3. This Court vide interim orders dated 1st March, 2013 and 19th July, 2013 had restrained the Opposite Parties to take any coercive action subject to petitioner depositing a sum of Rs.50,000/- plus another sum of Rs.50,000/- for restoration

of possession, a total of Rs.1 Lakh. It is not in dispute that upon deposit of the aforesaid amounts, the auction fixed for 2nd March, 2013 was not conducted and also the physical possession of the mortgaged house was restored to the petitioner upon compliance of the orders passed by this Court.

4. At the time of resumed hearing today, learned counsel for the Bank states that as on today, the total outstanding liability is to the tune of Rs.5,17,788/- whereas learned counsel for the petitioner in order to avail the benefit of an OTS policy, if any, prays for permission to withdraw the Writ Petition.

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 In view of the above, the Writ Petition is dismissed as withdrawn.

6. We do not deem it expedient to pursue the matter against the lawyer to whom a notice had been issued by this Court regarding operating an enforcement agency.

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