

(2022) 04 OHC CK 0124
In the Orissa High Court
Case No : Writ Petition (C) No. 663 Of 2022

Sarita Agarwalla

APPELLANT

Vs

Branch Manager, Union Bank Of India

RESPONDENT

Date of Decision : 21-04-2022

Acts Referred:

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

Citation : (2022) 04 OHC CK 0124

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

Bench : Division Bench

Advocate : S.D. Das, H. Mohanty, Sitanshu Kumar Dey

Final Decision : Dismissed

Judgement

1. This matter is taken up by virtual/physical mode.
2. Petitioner is the widow of defaulting borrower-Anil Kumar Agarwalla, who had defaulted in servicing the cash credit account for a sum of ₹ 90 lakhs availed in the year 2015/16 from the erstwhile Corporation Bank (now Union Bank of India), Karanjia Branch, Mayurbhanj. The loan account was classified as NPA on 31.07.2020 after the said Anil Kumar Agarwalla had died on 01.07.2019 leaving behind his legal heirs including the Petitioner-wife. The recovery proceedings under the SARFAESI Act, 2002 (in short "the Act, 2002") were initiated by issuance of a demand notice dated 10.08.2020 under Section 13(2) of the Act, 2002 and symbolic possession of the secured assets (three mortgaged properties) was assumed vide notice dated 11.08.2021 under Section 13 (4) of the Act, 2002.
3. Subsequently, the three mortgaged properties were put to auction vide sale notice dated 18.12.2021 fixing the auction sale for 20.01.2022.
4. By filing the present writ petition challenge has laid to the aforesaid e-auction notice dated 18.12.2021 (Annexure-6 series).

5. The Bank has filed a short affidavit dated 29.01.2022 of Shri Swadesh Das, Branch Manager indicating that out of the three equitable mortgages, the defaulting borrower had fraudulently sold off two properties without seeking the consent of the Bank, which fact has not been disclosed by the borrowers. It is further submitted that the e-auction fixed for 20.01.2022 has since been failed due to non-participation of any bidder.

6. Learned counsel for the Bank further points out that the properties are being put to auction again on 29.04.2022.

7. At this stage, learned counsel for the Petitioner prays for permission to withdraw the writ petition so as to file a fresh petition, if so advised, with proper and better particulars.

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 The writ petition is accordingly dismissed as withdrawn with the aforesaid liberty.

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