IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.3837 of 2026

M. Tamal Selvi Pillay & Ors. .... ***Petitioners***

Mr. Amit Prasad Bose, Adv.

-versus-

Bank of India Civil Township Branch, Sundargarh & Anr. .... ***Opp. Parties***

Mr. Gurudatta Kar. Panel Counsel for the Bank

CORAM:
JUSTICE DIXIT KRISHNA SHRIPAD
JUSTICE CHITTARANJAN DASH

ORDER
05.02.2026

Order No.
01.

Petition prayer reads as under:

"The petitioners, therefore pray that Your Lordship's may graciously be pleased to admit the writ application, issue notice to the opp. parties call for the records from the opp. parties and after hearing the parties issue writ /writ in the nature of Certiorari/ Mandamus by directing quashing of auction notice under Annexure -1 and also direct the opp. party to accept the deposit of Rs. 1,05,00,000/- by the petitioner through a 3rd party and pass any other order ion the interest of justice."(sic)

2. Learned counsel for the petitioner argues that his client is ready and willing to pay entire amount due in terms of three loans, namely, Rs.64.40 lakh sanctioned on 27.12.2018,

Rs.25.50 lakh sanctioned on 31.12.2018 & Rs.2.00 lakh sanctioned on 08.04.2020 along with all the interest that has accrued due. He alleges that Bank is not ready & willing to accept the amount and therefore, Bank should be directed to accept the entire amount due and rescind the auction scheduled to be held on 25.02.2026 in terms of auction notice dated 23.01.2026.

3. Learned Panel Counsel appearing for the Opposite Party-Bank opposes the petition contending that the petitioner is a chronic defaulter and his loan account came to be certified as NPA with effect from 31.03.2021 and therefore, inevitably the bank has marked the security property for auctioning in terms of Sections 13 & 14 of SARFAESI Act 2002. So contending, he seeks dismissal of the Writ Petition.

Having heard learned counsel for the parties and having perused the petition papers, we are inclined to grant a marginal interference in the matter as under, inasmuch as the borrower is ready & willing to make payment of the amount entirely due as per the loan agreement before the property is being auctioned. Learned counsel for the Petitioner-borrower also very fairly submitted that the amount due needs to be intimated by the bank, as on date, to which proposal learned Panel Counsel is fairly agreeable. The interest of the loan amount along with interest accruing thereon, and nothing beyond that, mortgage is for securing the repayment and not for anything else. Banks are held to be an entity under Article 12 of the Constitution of India vide ***Gujarat State Financial Corporation v. Lotus Hotels Pvt. Ltd.***, AIR 1983 SC 848.

4. When the borrower because of difficulty could not repay the debts as undertaken, the lender is more than justified in invoking the mortgage or to otherwise secure the repayment by auctioning of the mortgaged property. Therefore, we cannot find fault with the bank in scheduling the auction on 25.02.2026, as rightly contended by learned Panel Counsel appearing for the Opposite Party-Bank. However, when the borrower is ready & willing to repay, may be belatedly, the Bank has nothing to lose, inasmuch as the delay period also would attract interest and such other charges admissible in law.

In the above circumstances, this Writ Petition is disposed off with the following terms;

(i) Opposite Party-Bank shall inform in writing and over phone to the Petitioner-borrower the entire loan amount due (there may be other loans also) along with interest accruing due, of course, after giving due deduction of the amount allegedly paid on 26.12.2025 within ten (10) days from today.

(ii) On such intimation, the Petitioner shall remit the entire amount on or before 20.02.2026, unconditionally.

(iii) If the amount is not remitted as indicated in the immediately preceding direction, the scheduled auction shall go on.

(iv) It hardly needs to be stated that, on the remittance of entire loan amount outstanding, the Opposite Party-Bank shall withdraw the O.A. No.176 of 2023 pending on the file of DRT, Cuttack and further return the mortgage documents to the Petitioner after discharging the same and further the auction notice shall be rescinded.

Web copy of order to be acted upon by all concerned.

(Dixit Krishna Shripad)
Judge

(Chittaranjan Dash)
Judge

Prasant

Signature Not Verified
Digitally Signed
Signed by: PRASANT KUMAR SAHOO
Designation: Personal Assistant
Reason: Authentication
Location: Orissa High Court
Date: 10-Feb-2026 14:39:08