IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.33357 OF 2026

CNR No.ODHC010791992026

Anjali Swain .... ***Petitioner***

Mr. A.K. Das, Advocate

-versus-

Authorized Officer, Bank of Maharashtra and others .... ***Opp. Parties***

Mr. Ramesh Ch. Ojha, Advocate
(for O.P. Nos.1 & 2-Bank)
Mr. Manoj Ku. Mallick, Advocate
(for O.P. No.3)

CORAM:
HON'BLE MISS JUSTICE SAVITRI RATHO
HON'BLE MR. JUSTICE MRUGANKA SEKHAR SAHOO

ORDER

Order No. **26.11.2026**

02. **1.** This matter is taken up through Hybrid Mode.

2. Mr. A.K. Das, learned counsel for the petitioner submits that the petitioner has purchased Ac.0.20 decimals out Ac.0.55 dec of land of Plot No 674 of Khata No. 777/20, Mouza Cuttar Sahar standing in the name of Opposite Party No.3, after verifying all documents as well as an encumbrance certificate for 30 years vide RSD No. 10392508786 dated 24.06.2025 with one asbestos room . Pursuant to order passed in Mutation case No 10208 of 2025 , Mutation ROR in Khata No. 777/619, Plot No. 674 /2386 Ac 0.020 decimals, kisam gharabari has been recorded in his name and he has

been paying rent to the competent authority . After learning That notice under Section – 13 (4) of the SARFEAESI Act was issued on 03.09.2025 , he made enquiry and learnt that the plot had been mortgaged to the Bank of Maharashtra , Cuttack Branch by Opposite Party No 3 for a loan availed by him .As it became NPA , notice of recovery had been issued to him , but suppressing the same , Opposite Party sold a portion of the mortgaged property to him . He therefore lodged complaint against him and an FIR and Malgodown P.S. case No. 07 of 2026 has been registered against Opposite Party No.3 He has also filed Civil Suit No 706 of 2026 against the Bank , in the Court of the Civil Judge (SD) First Court, Cuttack.In the meanwhile e-auction notice dated 30.9.2026 was published by the Bank, which he has challenged. He also submits that the entire mortgaged property is not required to be auctioned to realize the dues of Opposite Party No 3, as the value of the remaining Ac.0.35 decimals of the property is sufficient to realize the outstanding dues of Opposite Party No. 3.

3. Mr. Mallick, learned counsel appearing on behalf of Opposite Party No.3 submits that during pendency of the writ petition, the Opposite Party No.3 has paid an amount of Rs.3,00,000/- (Rupees Three Lakhs) only towards the outstanding dues and an amount of Rs.21,00,000/- (Rupees Twenty One Lakhs)

only is outstanding against him , and he has submitted undertaking to the Bank to clear the balance outstanding amount in three monthly instalments.

4. The submissions of the learned counsel for the petitioner regarding value of Ac.0.35 decimals of property being sufficient to cover the outstanding dues of Opposite Party No.3 and payment of Rs 3 lakhs by Opposite Party No. 3 and his undertaking to clear the balance outstanding dues in three monthly instalments is not disputed by Mr. R.C. Ojha learned counsel for the Bank. He also submits that auction of the mortgaged property which was held on 30.10.2026 has failed. He submits that if the Opposite Party No 3 does not clear the outstanding amount within 3 months as undertaken, the Bank may be permitted to proceed with the auction of the mortgaged property.

5. Learned counsel for the petitioner submits that the petitioner undertakes to withdraw the Civil Suit, if the loan account is settled or if the Bank does not proceed for e- auction of the portion of the property (Ac 0.22 decimals) which has been bought by him.

6. After hearing the submissions of the learned counsel for the parties, we dispose of the writ petition with the following directions /observations :-

i) If the Opposite Party No.3- borrower, does not clear the outstanding dues of the Bank in three equal instalments, as undertaken by him, it is open to the Bank to proceed to recover its outstanding dues in accordance with law which includes e-auction of the mortgaged property.

ii) If the Opposite Party No.3- borrower-fails to clear the loan dues in three equal monthly instalments as per his undertaking and the value of Ac. 0.35 decimals of the mortgaged property , which still stands in the name of Opposite Party No.3, is sufficient the cover the outstanding dues of the Bank , it is open to the Bank to proceed for e-auction of that portion of the property instead of the entire mortgaged property.

7. Issue urgent certified copy as per rules.

(Savitri Ratho)
Judge

(Mruganka Sekhar Sahoo)
Judge

Radha/Jyostna

Signature Not Verified
Digitally Signed
Signed by: RADHARANI JENA
Reason: Authentication
Location: OHC
Date: 26-Nov-2026 19:58:16