

**In the Court of the Deputy Commissioner -cum- District
Magistrate, Bokaro**

SARFAESI Case No—17/2023-24

Indian Overseas Bank

Vs

Bijay Kumar

- ORDER -

13.12.2024 Authorized Officer, Indian Overseas Bank, Bokaro Steel City, Bokaro has filed application U/s 14 (1) and (2) OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT 2002 against 2nd party Bijay Kumar S/o Late Rameshwar Choudhary, H. No- 250, Kailash Nagar, Chas, Bokaro regarding handing over the physical possession of secured asset.

-: Schedule of asset / Land :-

All part and parcel of property consisting land and building situated at Maouza- Chas, Thana NO. 30, Khata No.-340, Plot No.- 5964, P.S.- Chas Area 09 decimals in the name of Bijay Kumar S/o Late Rameshwar Choudhary vide sale deed no 1755 dt 27.03.1987.

In continuation of the above application the second party has been issued notice to give his submission in his defense.

1. By the instant application it has been submitted by the applicant bank that the bank has initiated legal action under SARFAESI Act 2002 on the NPA account Bijay Kumar S/o Late Rameshwar Choudhary has sent him the Demand notice under section 13(2) of the SARFEASI Act on 04.11.2022 to pay the dues within 60 days, but he has failed yet to repay the said amount. Further process as per the Act under section 14 herewith submitting the Application this Court to assist the bank authorities for taking Physical Possession of the secured asset peacefully.
2. That, the bank has extended the credit facilities at the request of second party of Cash Credit Rs. 25,00,000/- and ECLGS of Rs. 5,00,000/- total amount of Rs. 30,00,000/-.
3. That, the Guarantor/borrower has executed various agreements with deposit of original title deeds of the Secured Asset. The borrower has given an immovable property as collateral security to the Bank by way of equitable mortgage by depositing the original title deed of situated at Plot no 5964, Khata no 340, Thana no.-30, Chas Bokaro-827013 measuring area of 09 decimals which is referred as the Security Assets.
4. That, it is submitted by the bank that on account of defaults committed by the borrower in the payment of interest and principal amounts due and payable to Bank, the account of the

borrower has been classified as non-performing asset as per the guidelines issued by the Reserve Bank of India on 27.10.2022.

5. That, the bank issued Demand notice for recovery of dues on 04.11.2022 as per provisions of section 13 (2) of the Act, whereby calling upon the borrower/ guarantor to repay the outstanding amount due to the bank within 60 days of the notice, which was duly served upon them. The guarantor / borrower has failed to discharge its liability even after expiry of 60 days period given in aforesaid notice.
6. That, it has also been submitted by the bank that the borrower has not given any objection against the Demand notice u/s 13(2) and also the borrower has not made entire repayment of the financial assistance in spite of the above notice and the Authorized officer is therefore entitled to take possession of the secured assets under the provisions of sub-section (4) of section 13 read with section 14 of the principal act.
7. That, in reply the second party in his written submission has referring this case filed by the bank as arbitrary, illegal and Malafidie manner and without any cogent reason.
8. That, the second party in his defense has submitted that earlier he has moved to Debt Recovery Tribunal (DRT) vide

against auction of the property.

9. That, the second party proprietor of M/s Bijay Kumar who deals in the business of all kinds of Iron and Steel craft, mechanical and engineering cokes, contract civil works and Catering and Housekeeping Services.
10. That, the second party the borrower firm approached the first party Bank for grant of MSME loan i.e. Cash Credit limit by way of financial assistance to the tune of Rs. 2 lakhs which was sanctioned by the first party bank in the year 1999 and subsequently enhanced from time to time and finally enhanced to Rs. 25 lakhs in the year 2018.
11. That, it is submitted by the second party that the mortgaged property comes under the purview of CNT Act. Further no reference has been made of mortgage in CIBIL reports wherein financial institution are required to file detail of mortgage as laid under the Credit Information Companies (Regulation) Act, 2005.
12. That, due to recession in the market and pandemic, Covid 19 the repayments by the major creditor was stopped the second party failed to make account regular for some period but the account was never become NPA which will reflect form the Statement of account of the bank itself.

13. That, the opposite party has also submitted that no notice was ever served upon the second party regarding classifying neither the account as NPA nor the loan was recalled apart from this party Bank has violated the mandatory provisions & rules of the security interest Act.

14. That, the second party was served with the notice under section 13(2) of the Securitization Act dated 04.11.2022 and an objection was filed on 25.11.2022 but the same was not decided in the objection it was categorically that the Gold Bond of Rs. 55,000/- submitted to the bank was given by way of collateral security that may be enhanced/ adjusted in the loan account so that to maintain the account regular and to slipped into NPA, but the bank has never replied the objections filed by the second party under section 13(3-A) of the SARFAESI Act. And further no possession notice under section 13(4) of the Securitization Act was served upon the second party nor published in the newspaper to knowledge of the second party.

15. That, it is also submitted by the second party that all of sudden, the First party Bank without any cogent reason has affixed/pasted sale notice dated - 05.06.2023 upon the mortgaged property of the second party and put the property for e-auction sale on 06.07.2023 assessing the valuation of the property in a very meager and low market value here it is

pertinent to mention subsequently it was noticed that the property fall within CNT Act.

16. That, the second party has also submitted that he is still willing to settle the account under OTS but the first party bank with illegal and arbitrary manner has took the symbolic possession of the scheduled property of the second party and put for e-auction sale.

17. After hearing both the parties and perusal of documents submitted by the Bank as well as the opposite party in his defense it transpires that the loan amount is become NPA on 27.10.2022 and after passage of two year no positive approach has been shown by the opposite party except, a Gold bond of Rs. 55,000/- against the aggregate credit amount of Rs. 30,33,887.27 which is seems to be insufficient in compare to the period of two year. Rather the opposite party referring the mortgaged property is under CNT showing the unwillingness towards the return of loan amount and tried to push the case in different direction to stretch the matter.

18. In light of above facts and circumstances the appeal of Authorized Officer, Indian Overseas Bank, Bokaro Steel City, Bokaro is hereby allowed. Superintendent of Police, Bokaro and SDM, Chas are directed to maintain the peace and law & order

during taking over the possession of the secured assets and
property.

Inform the concerns.

(Dictated and Corrected)

bj
Deputy Commissioner
-cum-
District Magistrate, Bokaro.

bj
Deputy Commissioner
-cum-
District Magistrate, Bokaro.

Date-....13/12/2024

Seal

Place - Bokaro