

Debts Recovery Tribunal, Orissa, Cuttack, Order Sheet (Continuation)

Jiban Jyoti Barik

Vs

Case No. SA/115/2023

Bank of India & Anr.

Date of Order	Order with signature	Office action with date and dated signature of parties when necessary
<u>Order No.</u> 21.12.2023	(The proceedings of the Court are being conducted through video conferencing from their residential offices/ residences. Also the Advocates and the Staffs joined the proceedings through video conferencing from their residences/offices). Present : For Applicant : Ld. Counsel Mr. R N.Das, For Respondent Nos. 1 and 2-: None Three petitions being IA/1980/23, IA/1982/23, and IA/1983/23 are posted for hearing. IA/1980/23 is taken up for hearing Heard Ld. counsel for SA applicant. None appears from the side of Respondent bank. Considered. In filing the instant petition being IA/1980/23 SA applicant has prayed for interim stay order for e auction to be held on 27/12/23. It is alleged that the property on auction is of a deceased mortgagor and no fresh notice u/s 13(2) has been issued to the legal heirs of the deceased mortgagor. It is stated that Mrs. Sumitra Barik the co-owner of property no.1 has expired on 07/10/23. It is also alleged that the respondent bank has not provided any valuation report to the applicant/mortgagor to their satisfaction before fixing the reserve price at Rs.126.70 Lakhs of the proposed auction, but the actual market value is Rs.2.50 crores. SA applicant prayed for interim stay restraining the respondent bank from conducting e auction sale on 27/12/23 in violation of the Sarfaesi Act and rules. None appears from the side of the defendant bank to contradict or controvert the contents of the petition under disposal. The law is well settled that proceeding against a person while he was alive would automatically stand abated immediately after his death and the only course open to the bank to initiate proceeding by issuance of a fresh notice to the legal heirs of the borrowers/ guarantors, as the case may be, as such legal heirs would then have an opportunity to discharge the liability. The interim stay as prayed for by the SA applicant is allowed.	

SA/115/2023

Respondent bank is restrained from conducting e auction sale on 27/12/23 till the next date of hearing.

IA/1980/23 is disposed off accordingly.

IA/1982/23 being put up is also disposed of.

To 05.02.2024 for hearing of SA/115/23 alongwith IA/1983/23 .

Respondent is directed to file affidavit in opposition to the IA/1983/23 and SA/115/23 within 2 weeks with copy to the Applicant who may file rejoinder within 2 weeks thereafter with copy to the respondent.


(Kamal De)
Presiding Officer- DRT-3, Kolkata
In charge of DRT, Cuttack