

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.1355 OF 2009
(Arising out of S.L.P. (C) No.5906 of 2008)

Union Bank of India & Anr.

...Appellant(s)

Versus

Panchanan Subudhi

...Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

By the impugned order, the High Court disposed of the writ petition filed by the respondent herein by directing them to pay a sum of Rs.10 lakhs in installments for liquidating the dues of the appellant bank.

A perusal of the record shows that the appellant-bank extended financial facility to the respondent to an extent of Rs.10 lakhs. The respondent deposited the title deeds of land and building as security. On 31.12.2000, the account of the respondent was declared as non-performing asset and O.A. No.70 of 2002 was filed before Debts Recovery Tribunal, Cuttack (for short, 'the Tribunal'). During the pendency of the O.A., the appellant-bank issued notice dated 3.9.2004 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act'). This was followed by notice dated

4.12.2004 issued under Section 13(4) of the Act. By an order dated 30.5.2005, the Tribunal passed decree in favour of the appellant for a sum of Rs.16,10,957/- along with pendent elite and future interest @ 12% per annum from the date of application. The respondent challenged the proceedings initiated under the Act in Writ Petition No.7435 of 2005. The High Court stayed the proceeding subject to the respondent depositing a sum of Rs.10 lakhs, which the latter never deposited. In the interregnum, the respondent approached the bank for one time settlement. The bank agreed for settlement, but the respondent failed to abide by the conditions of settlement. Consequently, bank issued notice dated 12.2.2007 for possession of the secured assets. The respondent challenged the said action in W.P. No.2322 of 2007, which has been disposed of by the High Court in the manner indicated hereinabove.

In our view, the approach adopted by the High Court was clearly erroneous. When the respondent failed to abide by the terms of one time settlement, there was no justification for the High Court to entertain the writ petition and that too by ignoring the fact that a statutory alternative remedy was available to the respondent under Section 17 of the Act.

Accordingly, the appeal is allowed and the impugned order is set aside and writ petition filed by the respondent before the High Court is dismissed.

.....J.
(B.N. Agrawal)

.....J.
(G.S. Singhvi)

New Delhi,
March 2, 2009