

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P. (C) No. 1400 of 2020

Ramesh Sharma

....

Petitioner
None

-versus-

***District Magistrate & Collector,
Sambalpur & Another***

....

Opposite Parties
None

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
12.07.2022

Order No.

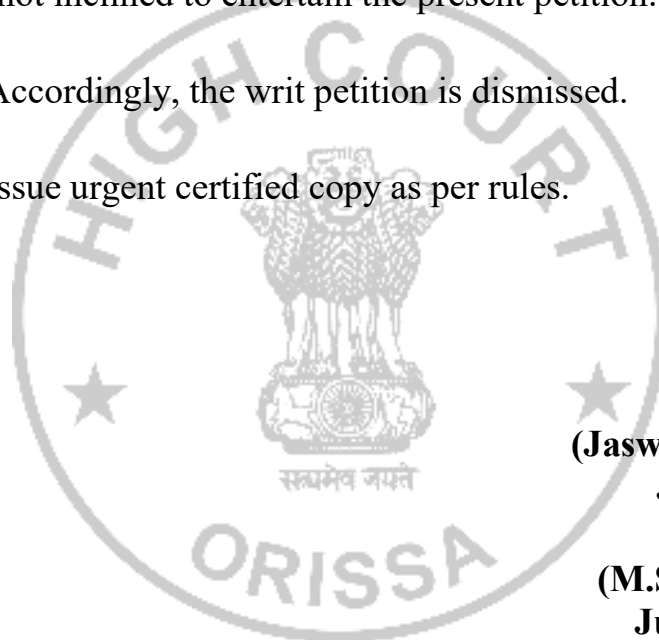
- 02.**
1. This matter is taken up by virtual/physical mode.
 2. Petitioner is a partner of M/s. Radharani Food Industries, Sambalpur, which had availed a loan facility from the State Bank of India, Sambalpur Branch, Sambalpur and on account of default in payment of installments, the account was declared as NPA and a demand notice was issued on 21st August, 2018 under Section 13(2) of the SARFAESI Act, 2002. The recovery process under SARFAESI Act, 2002 was initiated.
 3. The challenge in the instant petition has been laid to the order dated 3rd January, 2020 passed by the District Magistrate & Collector, Sambalpur, whereby the caveat petition filed by the Petitioner in the application under Section 14 of the SARFAESI Act, 2002 instituted by the secured creditor/Bank, has been dismissed on the ground that the proceedings being simpliciter executory in nature. Noteworthy here that in the case of MAA KALIKA BHANDAR vs. COLLECTOR & DISTRICT MAGISTRATE, W.P.(C) No. 26500 of 2021 vide judgment dated

29th June, 2022 after analysing the provisions of the SARFAESI Act and relevant case laws on the subject, this Court came to hold that proper remedy for challenging the orders passed by the District Magistrate, Sambalpur in the application under Section 14 of the SARFAESI Act, 2002 (in short, ‘ the Act, 2002’) is available before the DRT under Section 17 of the said Act.

5. In view of the settled principles of law for a borrower to challenge the order passed by the District Magistrate & Collector, Sambalpur under Section 14 of the SARFAESI Act, 2002, this Court is not inclined to entertain the present petition.

6. Accordingly, the writ petition is dismissed.

Issue urgent certified copy as per rules.



(Jaswant Singh)
Judge

(M.S. Raman)
Judge