

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.4543 of 2022

Ullas Swain

....

Petitioner

Mr. Gourav Mohanty, Advocate

-versus-

***Indian Overseas Bank,
Barabati Stadium Branch,
Cuttack***

....

Opp. Party

Mr. Aurovinda Mohanty, Advocate for the Bank

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M.S. SAHOO

ORDER (Oral)

31.10.2022

Order No.

05.

This matter is taken up through virtual/physical mode.

1. The successful auction purchaser of a Secured Asset is before this Court seeking a mandamus to the Secured Creditor/Bank to either refund the entire sale consideration paid for purchasing the auctioned property or handover the actual physical possession, which continues to be with the defaulting borrower/guarantor.

2. At the outset, learned counsel for the Bank submits that no doubt the entire sale consideration was paid by the month of April, 2017. However, due to *inter se* dispute raised by the LR's of the original borrower, neither the sale certificate could be issued nor the physical possession could be delivered to the

auction purchaser. He further submits that as of now an application under section 14 of the SARFAESI Act, 2002 (for short “the Act, 2002”) for providing official assistance to secure the physical possession stands filed before the DM-cum-Collector, Cuttack and as soon as the order would be passed, the same shall be got implemented and thereafter sale certificate issued and the sale deed registered.

3. In view of the above, it is conceded that nothing more survives for adjudication at this stage. The Writ Petition is accordingly disposed of.

4. It is hoped the DM-cum-Collector, Cuttack would decide the application under section 14 of the Act, 2002 at the earliest in the light of the prejudice having been caused to the petitioner-auction purchaser due to such huge delay.

(Jaswant Singh)
Judge

(M.S. Sahoo)
Judge

Basudev

31st October, 2022
Cuttack