

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14878 of 2022

***Pravakar Mohapatra and
Others***

.... Petitioners

Mr. S. K. Singh, Advocate

-versus-

***Chief Manager-cum-
Authorized Officer, Union
Bank of India, Asset
Recovery Branch, Cuttack
situated at BMC Bhawani
Mall, Saheed Nagar,
Bhubaneswar, Odisha***

.... Opp. Party

Mr. Bhaskar Chandra Panda,
Advocate for the Bank

**CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN**

**ORDER (Oral)
28.07.2022**

Order No.

- 03.** 1. This matter is taken up through hybrid arrangement (virtual/physical mode).
2. M/s. Kalinga Polypack Pvt. Ltd. (Petitioner No.5) is the defaulting principal borrower of a Term Loan of Rs.2.70 Crores and a Cash Credit facility of Rs.80 Lakhs and facing recovery proceedings under the SARFAESI Act, 2002 (for short, "the Act, 2002") at the instance of the Union Bank of India. Petitioner No.1 (Pravakar Mohapatra), Petitioner No.2 (Jolly Rani Mohapatra) and Petitioner No.3 (Sagarika Mohapatra) are the Directors of Petitioner No.5-Company (M/s. Kalinga Polypack Pvt. Ltd.) whereas Petitioner No.4 (Narasingha Purohita) is the guarantor.
3. By filing the present Writ Petition, the following prayer has been made:

“Under the aforesaid circumstances, it is humbly prayed that your Lordship’s may graciously be pleased to issue Rule NISI calling upon the Opp. Party to show cause as to why the Public Notice dtd. 07.06.2022 issued by the Authorized Officer, Union Bank of India under Annexure-3 shall not be quashed and set aside and if the Opp. Party fail to show cause or show insufficient cause make the said Rule NISI absolute;

And further be pleased to issue a writ of certiorari in line with aforesaid Rule NISI quashing the Public notice dtd. 07.06.2022 issued by the Authorized Officer, Union Bank of India under Annexure-3;

And pass such other writ/writs/, direction/directions, order/orders as the Hon’ble Court may deem, fit and proper.

And for this act of kindness, the petitioner as in duty bound shall ever pray.”

4. Learned counsel for the Petitioners had submitted before this Court in respect of an application dated 9th June, 2022 pending for consideration for an amicable settlement under the OTS Scheme. Thus, notice was issued to the Opposite Parties.

5. At the time of hearing today, learned counsel for the Bank points out that the challenge to the aforesaid public notice dated 07.06.2022 notifying the fact of taking over physical possession is not maintainable as it provides no cause of action. He submits that the physical possession was taken with official assistance in compliance of the order dated 30th March, 2022 passed by the Collector & District

Magistrate, Cuttack on the application under Section 14 of the Act, 2002 moved by the Bank. The said order was challenged before this Court by the Petitioners by filing W.P.(C) No.9955 of 2022, which was dismissed vide order dated 11th July, 2022 relegating the Petitioners to seek their remedy before the DRT. He further submits that the said proposal dated 9th June, 2022 offered by the Petitioners towards settling the outstanding liability of Rs.4.95 Crores due as on today was rejected vide order dated 16th June, 2022. He further submits that the Petitioners are free to approach the Bank for consideration under the regular OTS policy along with deposit of 25% of the outstanding liability as upfront amount for such consideration.

6. In view of the above, we find no grounds to invoke our Writ jurisdiction.

Accordingly, the Writ Petition is dismissed with liberty to the Petitioners to seek their remedy in accordance with law.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

AKK

28th July, 2022
Cuttack