

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No. 18288 of 2022

Yudhisthir Samal

....

Petitioner

None

-versus-

The Collector & District Magistrate,
Jagatsinghpur & Others

Opposite Parties

Mr. Manoj Kumar Mohapatra-1, Advocate
for Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
06.09.2022

Order No.

- 03.**
- 1.** This matter is taken up by virtual/physical mode.
 - 2.** Petitioner is a defaulter loanee/borrower, who along with his two brothers-co-borrowers/Opposite Party Nos.3 & 4 had availed a loan of sum of Rs. 20.00 lakhs from State Bank of India, Madhupatna Branch, Cuttack. Due to non-payment of instalments, the loan account was classified as NPA on 1st April, 2017 and a demand notice under Section 13(2) of the SARFAESI Act, 2002 was issued on 13th February, 2018, recalling the outstanding amount of Rs.19,17,884/- due as on 31st January, 2018. The symbolic possession was assumed by issuance of a notice under Section 13(4) of the Act, 2002 on 31st July, 2018.
 - 3.** The District Magistrate, Jagatsinghpur passed an order dated 7th July, 2022 on an application under Section 14 of the Act, 2002 directing to provide official assistance for taking over physical possession of the mortgaged house. It is thus, the notice

which has been challenged before this Court in the instant writ petition.

4. None has put in appearance for the Petitioner at the time of call.

5. Mr. Manoj Kumar Mohapatra-1, Advocate appearing for the Bank on advance notice submitted that the E-auction fixed for 30th August, 2022 of the mortgaged property has failed for want of any bidders, and the total outstanding amount as on today is Rs.37.00 lakhs. He further stated that the present writ petition is not maintainable as this Court has already held that the proper forum for challenging any order passed under Section 14, is to file an application under Section 17 of the SARFAESI Act, 2002 before the DRT by the borrower.

6. We are in total agreement with the argument raised on behalf of the counsel for the Bank. Accordingly, present petition is disposed of relegating the Petitioner to seek his remedy against the order dated 7th July, 2022 before the learned DRT. The periods spent before this Court would be liable to be excluded for consideration of the limitation period.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge