

IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) No.19779 of 2022

Santan Muduli

....

Petitioner

Mr. Suraj Mohanty, Advocate

-versus-

State Bank of India

....

Opposite Party

Mr. Dillip Kumar Mishra, Advocate for Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

Order No.

ORDER
22.09.2022

2.

This matter is taken up by virtual/physical mode.

1. The Petitioner is stated to have raised a home loan for Rs.8,80,000/- from State Bank of India Kandsar Branch, Nalco Nagar in the district of Angul in the year 2015. The loan was to be repaid in eight years with EMI of Rs.10,100/- per month. The loan was classified as NPA on 10th February, 2018 due to default in payment of monthly instalment. A demand notice under Section 13(2) of the SARFAESI Act was issued on 6th April, 2021 recalling an amount of Rs. 12,01,452/- due as on 6th April, 2021. Symbolic possession of the mortgaged property was assumed on 20th July, 2021 by issuance of notice under Section 13(4) of the Act.

2. The case of the Petitioner is that forcible actual physical possession of the house has been taken on 20th July, 2022 without any order passed by the District Magistrate under Section 14 of the SARFAESI Act, 2002.

Upon aforesaid contention, this Court had issued notice vide order dated 22nd August, 2022 which reads as under:-

“2. It is contended that the Petitioner-defaulting borrower has been forcibly evicted from the secured asset without there being any order under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

3. Issue notice for 22nd September, 2022.

4. Notice be issued to the Opposite Party by Speed Post with A.D. for the said date. Requisites be filed within three working days.”

3. A counter on behalf of the Bank has been filed, wherein an order dated 31st August, 2021 has been annexed as Annexure-D/1 showing the passing of the order under Section 14 of the SARFAESI Act by the Collector & District Magistrate, Angul directing the police assistance in taking over actual physical possession of the secured assets. In the counter, it is stated that the actual physical possession was taken on 20th July, 2022 after following due process of law.

4. At this stage, counsel for the Petitioner prays for permission to withdraw the writ petition to enable the Petitioner to seek his available remedy in accordance with law before the DRT, Cuttack.

5. Accordingly, the writ petition is disposed of as withdrawn with the aforesaid liberty.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge