

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.21672 of 2022

Kunja Bihari Nayak

....

Petitioner

Mr. S.K. Jena, Advocate

-versus-

***Authorised Officer-cum-Chief
Manager, State Bank of
India, Stressed Assets
Recovery Branch,
Bhubaneswar & Another***

....

Opp. Parties

Mr. M.K. Mohapatra-1,
Advocate for the Bank

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

ORDER (Oral)

01.12.2022

(Hybrid Mode)

Order No.

- 02.** 1. Petitioner is a Proprietor of M/s. Radha Krishna Rice Mill, which had availed a Cash Credit facility to the tune of Rs.56,40,625/- from State Bank of India, Aska Branch, District-Ganjam on 13.02.2015. It is stated that due to fire incidence in the Unit premises, severe losses were incurred resulting into non-servicing of the loan account and thereby it being classified as NPA on 28.06.2018. A demand notice dated 10.07.2018 under Section 13(2) of the SARFAESI Act, 2002 (for short “the Act, 2002”) was issued recalling the outstanding liabilities of more than Rs.50 lakhs plus future interest and incidental expenses. Symbolic possession of the mortgaged property was assumed vide notice under Section 13(4) of the Act, 2002 on 25.09.2018. It is

also averred that the OTS proposal offered by the petitioner in compliance of the orders passed by this Court in the earlier writ petition filed by the petitioner, was also rejected being concededly much lower than the outstanding liabilities.

2. The challenge raised in the instant Writ Petition is to the letter dated 25.07.2022 (Annexure-8), whereby an advance notice has been given to the petitioner to handover peaceful vacant physical possession of the mortgaged property failing which the Bank/Secured Creditor would be constrained to take legal steps in accordance with law.

3. After hearing the learned counsel for the petitioner, we find that the impugned Memo provides absolutely no cause of action to the petitioner to maintain the present Writ Petition. It is only an intimation to handover physical possession, which is strictly in accordance with the Scheme of the Act.

4. In view of the above, the Writ Petition is dismissed.

(Jaswant Singh)
Judge

(M.S. Sahoo)
Judge

AKK

1st December, 2022
Cuttack