**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.36721 of 2021**

***Sundaram Home Finance Limited (formerly known as Sundaram BNP Paribas Home Finance Limited) represented through its authorized signatory and power of attorney holder : Rajkumari Jacob presently working as Deputy Manager-cum-authorized Officer*** .... ***Petitioner***

Mr. Nalini Kanta Dash, Advocate

*-versus-*

***District Magistrate-cum-Collector, Cuttack and Others*** .... ***Opp. Parties***

Mr. Anupam Rath, ASC

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

**ORDER**

**Order No.** **15.03.2022**

**02.** **1.** This matter is taken up by virtual/physical mode.

**2.** The brief facts of the case are that the Petitioner is a Non-Banking Financial Institution (NBFI) registered under the Indian Companies Act and is in the business of advancing loans against mortgage of property. The Opposite Party No.2 i.e. Prasant Kumar Guru availed a loan of Rs.13,00,000/- vide loan account No.66200073 from the Petitioner on 18.02.2013 by mortgaging property located at Khata No.67, Plot No.399/1113, Unit No.-38, Mouza-Arundaya, Tahasil-Cuttack Sadar, District-Cuttack. Moreover, the Opposite Party No.3 i.e. Mrs. Susama Rani Guru stood as guarantor to the above loan.

**3.** Due to financial indiscipline, the Opposite Party Nos.2 and 3 failed to pay installments and consequently, the loan account was declared NPA. Further, a Notice under Section 13(2) of the SARFAESI Act, 2002 (in short 'the Act, 2002') was issued by the Petitioner on 01.10.2019. Also, a Notice under Section 13(4) of the Act, 2002 was issued on 04.01.2020 assuming symbolic possession.

**4.** The Petitioner found it difficult to take physical possession of the property and approached the Opposite Party No.1 i.e. District Magistrate, Cuttack under Section 14 of the Act, 2002 to take necessary action in taking over the physical possession of the secured asset. The Opposite Party No.1 failed to dispose of the application under Section 14 of the Act, 2002 within the mandated time-period. Aggrieved by the said inaction, the Petitioner has approached this Court to direct the O.P. No.1 to dispose of the application under Section 14 of the Act, 2002 and help him to take the physical possession of the secured asset.

**5.** It is the case of the Petitioner that the District Magistrate has violated the provisions of Section 14 of the Act, 2002, whereby he is required to pass an order within 30 days and extendable up to 60 days. However, in the present case, 21 months have lapsed from the date of filing of Section 14 application.

**6.** However, at the time of hearing, learned counsel for the petitioner/NBFI has no objection if the present writ petition is disposed of with the direction to the District Magistrate-cum-Collector, Cuttack/O.P. No.1 to decide the pending application under Section 14 of the Act, 2002 as per the timelines mandated by this Court while deciding the case of ***Bajaj Finance Ltd. v. M/s. Ali Agency and Others***, W.P.(C) No.11425 of 2021, decided on 10.01.2022. Even the learned counsel for the O.P. No.1 has no objection if directions are issued to O.P. No.1 to proceed with the pending application in the light of the said guidelines.

**7.** In view of the above submission, we dispose of the instant writ petition by directing the District Magistrate-cum-Collector, Cuttack/O.P. No.1 to follow the timelines/guidelines provided by this Court in the case of ***Bajaj Finance Ltd. v. M/s. Ali Agency and Others***, W.P.(C) No.11425 of 2021 decided on

10.01.2022, in dealing with the application under Section 14 of Act, 2002 without any further delay.

**(Jaswant Singh)**
**Judge**

**(M. S. Raman)**
**Judge**

March 15th 2022
Cuttack

AKPradhan