

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No. 40311 of 2021

Debabrata Sahu, **Petitioner**
Proprietor-Arundhati
Fashion, Dharmasala,
Jajpur

Mr. Rama Chandra Ray, Advocate
-versus-

Chief Manager-cum- Opp. Parties
Authorized Officer, UCO
Bank, Zonal Office,
Balasore and another

Mr. B. N. Udgata, Advocate for Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. SAHOO

ORDER (Oral)
11.01.2022

Order No.

- 02.** 1. This matter is taken up through virtual mode.
2. The Petitioner is the defaulting borrower of a Cash Credit Loan facility availed on 21.05.2007 from the UCO Bank, Barabati Branch, Jajpur. Due to financial indiscipline, the loan account was declared NPA on 31.12.2013. Demand notice U/s. 13(2) of the SARFAESI Act, 2002 (in short 'the Act 2002') was issued on 29.05.2014. After delay of 7 years, Notice U/s. 13(4) of the Act, 2002 assuming symbolic possession is stated to have been issued on 13.12.2021

which is a subject matter of challenge before this Court.

3. Counsel for the Petitioner by referring to the statement of accounts (Annexure-1), has tried to raise the issue that the amounts stated to be due, have not been correctly computed. He further states that the Bank is deliberately withholding the complete statement of account and also the loan agreement.

4. Mr. Udgata, counsel appearing for the Bank, who is on advance notice, submits that due process for recovery of the outstanding amount, which as on today is around ₹14 lakhs and has been followed, which is being seriously disputed by the counsel for the Petitioner by interjecting.

5. Keeping in view the nature of dispute being raised by counsel for the Petitioner, we are not inclined to invoke our writ jurisdiction as the Petitioner has efficient and effective alternative remedy available to him to approach the Debt Recovery Tribunal U/s. 17 of the Act, 2002. It is well settled that the courts should not exercise writ jurisdiction in SARFAESI Act.

6. In view of the above, the writ petition is dismissed and the petitioner is relegated to seek his remedy before the Debts Recovery Tribunal, in accordance with law.

7. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No. 4587, dated 25th March, 2020, modified by Notice No. 4798, dated 15th April 2021, and Court's Office Order circulated vide Memo Nos. 514 and 515 dated 7th January, 2022.

(Jaswant Singh)
Judge

(M. S. Sahoo)
Judge

January 11th 2022
Cuttack

AKPradhan

