IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.21391 of 2024

M/s. Munda Fuels,
Sambalpur ..... ***Petitioner***

Mr. S.K. Samal,
Advocate

-versus-

1. Branch Manager, Utkal Grameen Bank, Stressed Assets Recovery Branch, Dhanupali, Sambalpur

2. Regional Manager, Utkal Grameen Bank, Regional Office, Sambalpur

3. Chief Manager, Utkal Grameen Bank, Stressed Asset Recovery Branch, Sambalpur

4. Chairman, Utkal Grameen Bank, Head Office, Balangir ..... ***Opp. Parties***

CORAM:

THE HON'BLE MR. JUSTICE S.K. SAHOO

THE HON'BLE MR. JUSTICE CHITTARANJAN DASH

Order No. **ORDER**
04.09.2024

01. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel appearing for the petitioner.

The petitioner has filed this writ petition challenging the notice dated 29.07.2024 under Annexure-4 for taking physical possession of the mortgaged property of the petitioner under the SARFAESI Act, 2002 with a prayer for direction to enforce O.T.S. order for extension of time till O.L.R. permission is granted by the Sub-Collector, Sambalpur in Permission Case No.39 of 2019.

Learned counsel for the petitioner submitted that the petitioner may be given liberty to approach the appropriate authority highlighting his grievances and the said authority may be directed to dispose of the same in accordance with law.

Recently, the Hon'ble Supreme Court in the case of **M/s. South Indian Bank Ltd. & Ors. -Vrs.- Naveen Mathew Philip & Anr. reported in 2023 LiveLaw (SC) 320** has deprecated the interference of the High Courts in matters pertaining to the SARFAESI Act, where efficacious alternative remedy has been prescribed in the statute itself. The Hon'ble Court went on to hold as follows:

> "16. Approaching the High Court for the consideration of an offer by the borrower is also frowned upon by this Court. A writ of mandamus is a prerogative writ. In the absence of any legal right, the Court cannot exercise the said power. More circumspection is required in a financial transaction, particularly when one of the parties would not come within the purview of Article 12 of the Constitution of India. When a statute prescribes a particular mode, an attempt to circumvent shall not be encouraged by a writ

court. A litigant cannot avoid the non-compliance of approaching the Tribunal which requires the prescription of fees and use the constitutional remedy as an alternative."

In view of the settled position of law as held hereinabove so also in the case of **Hemraj Ratnakar Salian -Vrs.- HDFC Bank Ltd. & Ors. Reported in (2021) 20 Supreme Court Cases 395** and **Kanaiyalal Lalchand Sachdev & Ors. -Vrs.- State of Maharashtra & Ors. reported in (2011) 2 Supreme Court Cases 782**, since alternative and efficacious remedy is available to the petitioner, we are not inclined to entertain this writ petition. However, we grant liberty to the petitioner to approach the DRT by filing an appeal. If such an appeal is filed, the same shall be considered in accordance with law. It is made clear that we have not expressed any opinion on the merits of the case.

Accordingly, the writ petition stands disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge

(Chittaranjan Dash)
Judge

sipun

Signature Not Verified
Digitally Signed
Signed by: SIPUN BEHERA
Designation: Senior Stenographer
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 05-Sep-2024 19:52:22