



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.4679 of 2026

Sunafula Mahanta

....

Petitioner

Represented by Adv.-
Mr. M.C. Mishra, Adv.

-versus-

Bank of India & Ors.

....

Opp. Parties

Represented by Adv.-
Mr. T.P. Nanda, Adv. for OP.1

Mr. S.B. Panda, AGA
for OPs.2 & 3

CORAM:

**JUSTICE KRISHNA SHRIPAD DIXIT
JUSTICE CHITTARANJAN DASH**

**ORDER
24.03.2026**

**Order No.
03.**

Petition prayer reads as under:

“In view of above facts and circumstances, the petitioner humbly prayed that this Hon'ble Court may graciously be pleased to admit the writ petition, and to issue notice to the Opp. Parties, failed to show cause or Show in sufficient, and this Hon'ble Court further be pleased to issue a writ of Certiorari or any other order or writ of mandamus in appropriate form of direction/order or direction for quashing the impugned notice dated 04.12.2025 issued by the Opp. Party No. 1 under Annexure-5, and no further coercive action shall be taken against petitioner, and declared seizure and possession of petitioner's property is quite illegal and void as secured creditor claim from secured asset as per U/s14 of Sarfaesi Act, and compensation on illegal dispossession and mental agony and hardship suffer as petitioner is bonafide buyer, lawful owner but not the borrower /guarantor /mortgaged deed. If this Hon'ble Court not give appropriate direction to O.P No. 1 the lawful petitioner will suffer from irreparable loss which can not be compensated in any manner and or any order passed by this Hon'ble Court.”



2. Learned counsel for the Petitioner vehemently argues that his client holds a Registered Sale Deed dated 08.09.2023, whereby he has become absolute owner of the subject property and he adds that since mortgage, if any, is not reflected in the Encumbrance Register nor in the RoR, there cannot be any encumbrance on the holding of his client. Therefore, he submits that the impugned order passed under Section 14 of the SARFAESI Act, 2002 is liable to be voided to the extent it interference with the interest of petitioner. Per contra, learned Panel Counsel appearing for the Bank and leaned AGA appearing for the official OPs oppose the petition contending that already there is S.A. No.209 of 2025 pending on the file of DRT, Cuttack wherein petitioner also has sought for intervention and the same has been pending. They submit that petitioner can workout his remedy under Section 17 of the 2002 Act and that he can take up all contentions of the Writ Petition before the DRT.

Having heard learned counsel for the parties and having perused the petition papers, we decline indulgence in the matter broadly agreeing with the submission of learned AGA and also learned Panel Counsel appearing for the Bank. This being a Writ Court cannot undertake an examination of disputed facts as to there being an equitable mortgage of the security property, which the petitioner has bought arguably during the subsistence of the mortgage. When a person buys mortgaged property, what he purchases is equity of redemption and nothing beyond that. In other words, the buyer becomes the



mortgagee, mortgager remaining the same. However, deeper examination of the matter is not required, inasmuch as that exercise has to be undertaken by the DRT itself, the provisions of Section 17 of the Act being as wide as they are.

In the above circumstances and with the above observations, petition is disposed off keeping open all contentions of the parties before the DRT in the said S.A.

No costs.

Web copy of order to be aced upon by all concerned.

(Krishna Shripad Dixit)
Judge

(Chittaranjan Dash)
Judge

Prasant