



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.5244 of 2026

Lalit Kumar Swain

.... Petitioner

Mr. A. Das, Advocate

-versus-

**Authorized Officer, Axis Bank Ltd,
Kolkata and another**

.... Opp. Parties

CORAM:

JUSTICE KRISHNA SHRIPAD DIXIT

JUSTICE CHITTARANJAN DASH

ORDER

23.02.2026

Order No.

02.

I.A. No.3729 of 2026

Petitioner having taken agricultural loan on 22.09.2021 in a sum of Rs.29,00,000/- (Rupees Twenty Nine lakh) only and having repaid Rs.8,00,000/-(Rupees Eight lakh) only, is knocking at the doors of Writ Court against the coercive action of recovery by the OPs under the provisions of SARFAESI Act, 2002.

2. Learned counsel for the Petitioner vehemently argues that his house property that was mortgaged for securing the repayment has been taken symbolic possession on 19.02.2026; his client and his family are residing there even now; they are ready and willing to pay 50% of the loan amount along with interest that has accrued



due till date, within three weeks; therefore, they need to be given interim protection from removal from the occupation of the property.

3. A prima facie case is made out for issuance of emergent notice and for granting interim protection as sought for, since Petitioner is an agriculturist, who needs to be handled with the soft gloves in this Country agriculture being lifeline, vide Apex Court decisions in *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180 & *M.C. Mehta v. Union of India*, 2019 SCC Online SC 1733. Petitioner appears to be *bona fide* lonee, since he has already repaid a sum of Rs. 8,00,000/-(Rupees Eight Lakh) only, as argued before us. Further, he is ready and willing to pay 50% of the outstanding loan amount within three weeks. There is no reason to doubt version of an agriculturist like him. After all, we are not staying the taking of possession but protecting permissive occupation of the Petitioner and his family for a short period, subject to the say of the Bank on the next date of hearing. It hardly needs to be stated that right to residence is one of the fundamental rights guaranteed under Article 19(1)(e) of the Constitution of India.

In the above circumstances, the OP-Bank is restrained from removing the inmates of the house in question, till next date of hearing, subject to Petitioner paying the outstanding money within three equalized weekly installments, reckoned from this day.



Issue emergent notice with copy of this interim order to the OPs by speed post with A.D. returnable within two weeks, requisites for which to be filed within two working days.

Web copy of this order to be acted upon by all concerned.

(Krishna Shripad Dixit)
Judge

(Chittaranjan Dash)
Judge

Madhusmita