

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**W.P.(C) No.7504 OF 2010**

***Surajit Singh Deo***

....

***Petitioner(s)***

Mr.P.K.Nanda,Adv.

-versus-

***Nabaranglal Sharma***

....

***Opposite Party(s)***

Mr.R.Sharma,Adv.

**CORAM:**  
**JUSTICE BISWANATH RATH**

**ORDER**  
**16.12.2022**

**Order No.**  
06.

1. Heard learned counsel for the Parties.
2. This Writ Petition involves a challenge to the impugned order vide Annexure-1 passed on 23.09.2009 in rejecting the time petition for requiring further time to pay cost in allowing of the application under Order 9 Rule 13 of C.P.C.
3. Background involving the case is that there involving argument on an application under Order 9 Rule 13 of C.P.C. and by order dated 28.08.2009, such application was allowed however subject to payment of cost of Rs.500/-. Order-sheet being produced, this Court finds on 10.09.2009 Petitioner files a time petition, time was allowed extending time for payment of cost 23.09.2009 but however in non-compliance of the order on 10.09.2009 Petitioner moved another application for time which has been rejected by the impugned order dated 23.09.2009 and as a consequence rejection of the time petition to effect of the Order 9 Rule 13 of C.P.C. has also been taken away

for the default of the Petitioner in not complying the conditional order in allowing the Order 9 Rule 13 application.

4. Considering the rival contentions of the parties, this Court finds, there has been repeated lapses on the part of the Petitioner resulting unnecessarily preferring this Writ Petition and for a silly matter of non-payment of cost of Rs.500/- within time stipulated by the Court. In the meantime there is also loss of another twelve years for pendency of the case in this Court. Thus while finding to provide an effective adjudication of the main proceeding, this Court even though interferes in the order dated 23.09.2009, but however subject to imposition of further cost to compensate the suffering of the private Opposite Party herein.

5. In the process while setting aside the order dated 23.09.2009 in restoration of the order dated 28.08.2009 this Court imposes a sum of Rs.5000/- as cost on the Petitioner to be paid to the private Opposite Party herein at least within a period of two weeks from the order. Subject to filing of receipt showing the aforesaid cost, the matter will be relegated back after the order dated 28.08.2009.

6. The Writ Petition succeeds. However with award of cost as indicated herein.

**(Biswanath Rath)**  
**Judge**

**Swarna**