

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P(C). No.22023 of 2013

Sri Amiya Kumar Behera

....

Petitioner

None

-versus-

***Union Bank of India, Bhadrak
Branch & Others***

....

Opposite Parties

None

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
20.05.2022

Order No.

- 04.**
1. This matter is taken up by virtual/physical mode.
 2. The Petitioner (Defendant No.4 in O.A. No.54 of 2001 before the Debts Recovery Tribunal) has challenged the order dated 17th June, 2013, whereby the petition bearing M.A. No. 540 of 2009, arising out of O.A. No. 54 of 2001 filed by the Petitioner under Section 22(2)(g) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (presently renamed as “Recovery of Debts due to Banks and Financial Institutions and Bankruptcy Act, 1993”) read with Order 9 Rule 13 of the Code of Civil Procedure for setting aside the *ex parte* judgment dated 18th August, 2005 passed in O.A. No. 54 of 2001, has been rejected by the Debts Recovery Tribunal, Cuttack.
 3. Perusal of the impugned order dated 17th June, 2013 reveals that Defendant Nos. 1, 2 and 5 are arrayed in O.A. No. 54 of 2001 (disposed of *vide* order dated 18th August, 2005) contested the

original application as also consequent Certificate of Recovery registered as R.P. No. 175 of 2006.

4. The writ petition challenging the order dated 17th June 2013 rejecting the prayer to set aside the *ex parte* order dated 28th November, 2002 passed in O.A. No. 54 of 2001 has been filed way back in 2013. The record reveals that the matter has never been moved for being taken up by this Court.

5. It may not be out of place to record the following observation of the Debts Recovery Tribunal *vide* its Order dated 17.06.2013 passed in M.A. No.106 of 2012 which was filed by Manoranjan Parida who was arrayed as Defendant No.3:

*“*** The allegations of the defendant No.3 could have been seen if the defendant No.3 had appeared before this Tribunal in O.A. No.54 of 2001. But since he had deliberately avoided to appear in the said proceedings despite service of notice and his application for setting aside the ex parte Judgment dated 18.08.2005 passed in O.A. No.54 of 2001 has been dismissed by this Tribunal and said order of the dismissal has been confirmed by the Hon’ble High Court in W.P.(C) No.5653 of 2008 dated 05.03.2009 and it has further been confirmed by the Hon’ble Apex Court in SLP No.11986 of 2009, hence there is no scope to rehear the same matter again and again. ***”*

6. None appears for either party. It seems that by efflux of time, no cause of action survives and the matter has been rendered infructuous.

7. In such view of the matter, the writ petition is dismissed as infructuous.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Aks

May 20, 2022 Cuttack

