

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.23765 of 2014**

***Kuni Jena and Others*** .... ***Petitioners***

Mr. N. Sahoo, Advocate

*-versus-*

***Registrar, Debts Recovery  
Tribunal, Cuttack Bench,  
Cuttack and Others***

.... ***Opp. Parties***

None

**CORAM:**

**JUSTICE JASWANT SINGH**

**JUSTICE G. SATAPATHY**

**ORDER (Oral)**

**25.11.2022**

(Hybrid Mode)

**Order No.**

- 03.**     **1.**     The petitioners assailing the proceeding in O.A. No.330 of 2012 at Annexure-1 series and order passed therein on 20.11.2013 by the Presiding Officer, Debts Recovery Tribunal, Cuttack Bench, Cuttack, placed at Annexure-5 has come up with this writ petition seeking for a direction to opposite party No.6- the Superintendent of Police, E.O.W, Bhubaneswar to investigate the complaint placed at Annexure-9.
- 2.**     Heard Mr. Nalinikanta Sahoo, learned counsel for the petitioners, who submits inter alia that a proceeding in O.A. No.330 of 2012 was instituted before the Debts Recovery Tribunal, Cuttack Bench, Cuttack for recovery of loan amount of

Rs.12,48,366.64/- and the petitioners on receipt of notice of substitution being the legal heirs of Souri Jena came to know about the aforesaid proceeding. It is asserted that the alleged guarantor of loan i.e. the said Souri Jena had died on 24.07.2005 much prior to the loan documentation on 31.12.2009 so as to make the said guarantor or his successor-in-interest i.e. the petitioners liable for the loan as a mortgager. The petitioners accordingly had filed a petition under Section 19(25) of the Recovery of Debts and Bankruptcy Act, 1993 in O.A. No.330 of 2012 seeking direction for investigation into the matter by Crime Branch/CBI, but the P.O., DRT, Cuttack Bench, Cuttack rejected such petition of the petitioners by Annexure-5 without any valid reason. Mr. Sahoo, learned counsel for the petitioners accordingly prays to quash the proceeding in O.A. No.330 of 2012 vide Annexure-9 as well as the aforesaid order under Annexure-5 and seeks for a direction to CBI to investigate the matter.

**3.** For better appreciation of the prayer of the petitioners, the relevant portions of the order challenged under Annexure-5 in this case are extracted below:

*“Defendants No.3(i) to 3(iv) had not filed their show cause reply in compliance of the order dated 01.10.2013. On the contrary they had moved one application under Section 19(25) of the RDDB & FI Act, 1993*

*for handing over the matter to the Crime Branch/CBI for investigation. In the said application it has been submitted that Shri Souri Jena who was arrayed as defendant No.3 had expired on 24.07.2005 much prior to the filing of the original application and the execution of the documents being dated 31.12.2009 which are after the death of late Souri Jena. As such, the Bank has committed fraud which is required to be investigated.*

*The legal heirs of deceased defendant No.3 are at liberty to take all such pleas in the written statement and if it is established that late Souri Jena had expired much prior to the execution of the documents, the consequence of the same will follow in accordance with law.”*

**4.** A bare perusal of the above order passed by P.O., DRT, Cuttack Bench, Cuttack would go to indicate that the petitioners have moved one application under Section 19(25) of the Recovery of Debts and Bankruptcy Act, 1993 seeking for a direction to CBI to investigate the matter on the ground that they are the legal heirs of Souri Jena who was arrayed as a defendant No.3 and he had expired on 24.07.2005 much prior to filing of the original application and the execution of alleged loan documents on 31.12.2009 and thereby, the Bank has committed fraud which is required to be investigated. The P.O., DRT, Cuttack Bench, Cuttack while rejecting the application of the petitioners has rightly observed that the legal heirs of deceased-defendant No.3 are at liberty to take all such pleas in the

written statement and if it is established that late Souri Jena had expired much prior to the execution of the documents, the consequence of the same will follow in accordance with law. Besides, Section 20 of the Recovery of Debts and Bankruptcy Act, 1993 provides for appeal to the Appellate Tribunal and the proper remedy for the petitioners, being aggrieved with the order passed at Annexure-5, was to have preferred an appeal to the Appellate Tribunal but without preferring an appeal, the petitioners have directly approached this Court in this writ petition. Hence, at the threshold, the writ petition is not maintainable.

**5.** In view of the aforesaid facts, this Court does not find any infirmity in the order passed by the P.O., DRT, Cuttack Bench, Cuttack.

Resultantly, the writ petition merits no consideration and is accordingly dismissed.

**(Jaswant Singh)**  
**Judge**

**(G. Satapathy)**  
**Judge**