

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.8557 of 2017

Amulya Kumar Tripathy ***Petitioner***
None

-versus-

***Branch Manager, United
Bank of India, Nayabazar
Branch, Cuttack & Others*** ***Opp. Parties***
None

**CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN**

**ORDER (Oral)
12.09.2022**

Order No.

02 This matter is taken up through virtual/physical mode.

1. The petitioner is one of the guarantors of a Cash Credit facilities availed by M/s. Samant Marine Udyog, a Proprietorship concern of Sri Ashok Kumar Kanungo to the tune of Rs.11.31 Lakhs on 2nd March, 1983 from United Bank of India, Nayabazar Cuttack.

2. The Secured Creditor, i.e., United Bank of India had filed a Title Mortgage Suit No.658 of 1987 before the Sub-Judge, First Court, Cuttack seeking recovery of the outstanding liabilities. For breach of the terms and conditions of the loan by not depositing the installments/servicing the account, the United Bank of India, Nayabazar, Cuttack filed the above suit seeking a sum of Rs.71,12,345/-,

wherein the petitioner was impleaded as Defendant No.6. Upon vesting of jurisdiction before the DRT after the promulgation of the Recovery of Debts and Bankruptcy Act, 1993, the said Suit was transferred before the DRT, Cuttack and was renumbered as T.C. No.214 of 2001. It transpires that the learned DRT heard the matter on 16.01.2009 and reserved the judgment for delivery on 13.02.2009. However, on 13.02.2009, the matter was reopened in respect of discrepancies in the Statement of Account. Finally vide order dated 19.08.2014, the learned DRT, Cuttack rejected two Miscellaneous Applications bearing No.124 of 2009 and 216 of 2009 in respect of acceptance of the Statement of Bank Account and amendment in the Plaint in respect of Statement of Account. The Bank took the order on 19.08.2014 by filing two appeals before the learned Debts Recovery Appellate Tribunal. The learned Appellate Tribunal passed an order dated 30th March, 2017 allowing both the appeals filed by the Bank with the direction to the DRT to receive the Statement of the Account, allow necessary amendment in the Plaint and after getting opportunity to the Defendants to file objection in respect of the Statement of the Account, decide the case. Necessary steps were made time bound with further direction to decide the main case itself within a period of one month.

3. It is the aforesaid order dated 30th March, 2017, which has been challenged before this Court on the ground of violation of principles of natural justice.

4. We find that since the filing of the present Writ Petition on 06.05.2017, neither the defects pointed out by the Stamp Reporter have been removed nor any effort has been made to get the case listed. Even today none has appeared on behalf of the petitioner. It is evident that by efflux of time, the Writ Petition has become infructuous.

5. In view of the above, the Writ Petition is dismissed as infructuous.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

AKK

12th September, 2022
Cuttack