

IN THE HIGH COURT OF ORISSA AT CUTTACK

RSA No.379 of 2018

Sadhabani Behera and another ***Appellants***
Mr. Amit Prasad Bose, Advocate

-versus-

Bauri Sahoo ***Respondent***
Mr. Abinash Routray, Advocate

CORAM:
JUSTICE CHITTARANJAN DASH

ORDER
11.08.2023

Order No.

09. 1. Heard learned counsel for the Appellants and the Respondent.
2. On perusal of the case record, it reveals that vide order dated 13.07.2023, this Court directed stay of further proceeding of the execution pending before the learned court below. In the said order, some sentences have been omitted inadvertently while being transcribed. The order in I.A. No.1153 of 2022 be read as follows:-
- “5. It is submitted by learned counsel for the Appellants that despite the order dated 25.09.2019, further proceedings in Execution Application No.34 of 2018 has been stayed till disposal of the Second Appeal. The court below vide order dated 30.08.2022 was pleased to vacate the stay of further proceeding.”
3. It is submitted by learned counsel for the Appellants that despite the order dated 25.09.2019, the learned court below proceeded

with the execution proceeding misconstruing the mandate issued in the decision of the Apex Court in the matter of *Asian Resurfacing of Road Agency vrs. Central Bureau of Investigation (2018) 16 SCC 299*.

4. The relevant portion of the order extracted from the decision is as hereunder:-

“36. In view of the above, situation of proceedings remained pending for long on account of stay needs to be remedied. Remedy is required not only for corruption cases but for all civil and criminal cases where on account of stay, civil and criminal proceedings are held up. At times, proceedings are adjourned sine die on account of stay. Even after stay is vacated, intimation is not received and proceedings are not taken up. In an attempt to remedy this situation, we consider it appropriate to direct that in all pending cases where stay against proceedings of a civil or criminal trial is operating, the same will come to an end on expiry of six months from today unless in an exceptional case by a speaking order such stay is extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay was more important than having the trial finalized. The trial court where order of stay of civil or criminal proceedings is produced, may fix a date not beyond six months of the order of stay so that on expiry of period of stay, proceedings can commence unless order of extension of stay is produced.”

Plain reading of the order shows that the stay has to be vacated after expiry of six months in all proceedings of civil or criminal cases where trial has been stayed.

5. In the case at hand, the proceeding in execution case, the cause of action of which comes after completion of trial. Of course, this Court by interpretation, cannot attempt to give a different meaning

to the spirit of the order restricting it to the proceeding in the matter of trial only.

6. Be that as it may, allowing the prayer of the Appellant, the further proceeding in execution is stayed till next date.

RSA No.379 of 2018

Order No.

10. 7. Heard both the parties.
8. On the request of learned counsel for the Appellants, list this matter on 15th September, 2023. The earlier order dated 13.07.2023 staying further proceeding in execution case shall continue till next date.

(Chittaranjan Dash)
Judge

AKPradhan

