IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11989 Of 2022
(Through hybrid mode)

State of Odisha and others .... ***Petitioners***

Mr. D. Mohanty, AGA

-versus-

Larsen and Toubro Ltd. .... ***Opposite Party***

Mr. Gautam Mishra, Senior Advocate

CORAM: JUSTICE ARINDAM SINHA

ORDER
19.05.2022

Order No.

1. **1.** Mr. Mohanty, learned advocate, Additional Government Advocate appears on behalf of State (petitioners). He submits, order no.19 dated 12th April, 2022 passed by Court of Senior Civil Judge Commercial Court, Bhubaneswar (Executing Court) was made in exercise of its jurisdiction illegally and with materials irregularity. He submits, said Court ought to have considered that his client has right to exhaust civil remedy available by adjudication of the curative petition filed by it in the Supreme Court.

2. Mr. Mishra, learned senior advocate appears on behalf of opposite party and relies on judgment of the Supreme Court in **Rahul S. Shah v. Jinendra Kumar Gandhi** reported in **(2021)6 SCC 418** to

submit, thereby was declaration of law that execution proceeding should be concluded within six months. He refers to order sheet annexed in the petition to submit, first order passed by the Executing Court was on 15th July, 2021.

3. Perused impugned order. There is recital that petitioners challenged the award, thereafter filed appeal and carried its failure to succeed, to the Supreme Court. On obtaining adjudication on their civil appeal in the Supreme Court, petitioner preferred review. That also went against it. Now they have filed curative petition. The Executing Court said in impugned order that merely filing of curative petition is not a ground to stay the further proceeding of the execution petition and rejected petitioners' prayer for stay.

4. In circumstances aforesaid, Court does not find that the executing Court proceeded in exercise of its jurisdiction, illegally or there is material irregularity in impugned order.

5. The writ petition is dismissed.

(Arindam Sinha)
Judge

Sks