
(2022) 10 OHC CK 0146
In the Orissa High Court
Case No : Writ Petition (C) No.14216 Of 2022

M/S. Hotel Sagar, Cuttack	Vs	APPELLANT
Dy. Director, ESI Corporation, BBSR		RESPONDENT

Date of Decision : 27-10-2022

Acts Referred:

Code of Civil Procedure, 1908 — Section 151
Employees' State Insurance Act, 1948 — Section 45A(1), 45G, 75, 77

Citation : (2022) 10 OHC CK 0146

Hon'ble Judges : Arindam Sinha, J; Sanjay Kumar Mishra, J

Bench : Division Bench

Advocate : Sarat Kumar Behera, Amarendra Pr. Ray

Final Decision : Disposed Of

Judgement

Arindam Sinha, J

1. Mr. Behera, learned advocate appears on behalf of petitioner and submits, impugned is judgment dated 14th February, 2022 made by Employees Insurance Court-Cum-District Judge, Cuttack, rejecting his client's challenge made by application under section 75 and 77 of Employees' State Insurance Act, 1948. He submits, the Regional Director had by order dated 15th November, 1993 noticed his client to render explanation or statement as mentioned in paragraph 4 therein. It was not an order of determination made under sub-section (1) in section 45-A. As such, pursuant thereto recovery by garnishee proceeding could not have been commenced under section 45-G. Hence, his client's challenge to impugned judgment is on jurisdiction and availability of statutory alternative remedy cannot be a bar.

2. Mr. Ray, learned advocate appears on behalf of opposite party and prays for adjournment to obtain instructions and submit. Mr. Behera prays for interim relief as prayed for in his client's application under section 151 in Code of Civil Procedure. The prayer is for interim stay of operation of impugned judgment. Mr.

Ray submits, the application has not been registered and numbered.

3. Materials on record do not disclose order of determination of dues. Court is satisfied that petitioner has a prima facie case. There will be stay of operation of impugned judgment till next date.

4. List on 10th November, 2022.

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