
(2022) 01 OHC CK 0050
In the Orissa High Court
Case No : Writ Petition (Civil) No. 49 Of 2022

Sandeep Jajodia

APPELLANT

Vs

IDBI Bank Ltd. And Others

RESPONDENT

Date of Decision : 10-01-2022

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 60, 95, 99

Citation : (2022) 01 OHC CK 0050

Hon'ble Judges : Arindam Sinha, J

Bench : Single Bench

Advocate : R.Banerjee

Judgement

Arindam Sinha, J

1. Mr. Banerjee, learned senior advocate appears on behalf of petitioner and submits, inter alia, application was filed under section 95 in Insolvency and Bankruptcy Code, 2016 against his client seeking commencement of insolvency proceeding, on him being guarantor to a corporate person, against whom insolvency proceeding had already commenced. He refers to notification dated 1st June, 2016. Entry 10 in the notification is constitution of National Company Law Tribunal (NCLT) at Mumbai having jurisdiction over, inter alia, state of Chhattisgarh. Subsequently, by notification dated 12th July, 2018 NCLT, Cuttack was constituted, having jurisdiction over, inter alia, state of Chhattisgarh. There was corresponding deletion of state of Chhattisgarh in said earlier notification.
2. He submits, the insolvency proceeding commenced against the corporate person having registered office in State of Chhattisgarh, was instituted in NCLT, Mumbai. By order dated 10th August, 2021, NCLT, Mumbai transferred the

insolvency proceeding to NCLT, Cuttack. It is therefore that the
insolvency proceeding against his client was initiated in NCLT, Cuttack because
section 60 requires the proceeding, initiated against his client, to be
lodged or initiated where the proceeding against the corporate person is pending.
He submits, impugned order dated 22nd December, 2021, giving
direction upon the resolution professional to exercise powers provided in section
99, in relation to his client, could not have been made by the Bench.

3. He submits, said notification dated 12th July, 2018 did not provide for transfer,
unlike provision made, inter alia, by Recovery of Debts Due to Banks
and Financial Institutions Act, 1993, whereunder bank suits stood transferred to
the tribunal. NCLT, Mumbai could not have transferred the case
against the corporate person. Without prejudice to above contention he submits
further, the proceeding initiated against his client is also barred by
limitation.

4. Issue notice along with copy of this order on opposite parties. Petitioner will
put in requisites.

5. List on 24th January, 2022. Mr. Banerjee prays for stay of proceeding before
NCLT, Cuttack Bench. Petitioner is at liberty to produce this order
before the Cuttack Bench and pray for adjournment.

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