

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No. _____ of 2025
(@Special Leave Petition (C) No.14350/2022)

M/S UTKAL HIGHWAYS ENGINEERS AND CONTRACTORS ...Appellant

VERSUS

CHIEF GENERAL MANAGER & ORS. ...Respondents

W I T H

Civil Appeal No. _____ of 2025
(@Special Leave Petition (C) No.15596/2022)

O R D E R

Civil Appeal No. _____ of 2025
(@Special Leave Petition (C) No.14350/2022)

Leave granted.

2. Heard learned counsel for the parties.
3. The order under challenge dated 15.03.2022 is passed by the High Court of Orissa at Cuttack in W.P.(C) No.8037 of 2011 whereby the writ petition filed by the appellant has been disposed of by relegating the writ petitioner (*i.e.*, the appellant herein) to avail alternative remedy.
4. In the connected matter, the order under challenge is dated 05.01.2022 passed by the same High Court whereby W.P.(C) No.16899 of 2010 filed by the appellant has been disposed of by relegating the writ petitioner (*i.e.*, the appellant herein) to pursue its remedy before the authority.
5. The short submission of the learned counsel for the appellant in both the appeals is that the writ petitions were filed in the year 2010, parties had exchanged their affidavits, and the matters were ripe for final disposal. In these circumstances, without even adverting to the facts borne out from the affidavits exchanged by

the parties, there was no justification for the High Court to relegate the appellant to avail other remedies.

6. In the light of the aforesaid submission, we put a specific question to Mr. K.M. Nataraj, learned senior counsel representing respondent, as to whether parties had exchanged their affidavits in the course of the writ proceedings.

7. Mr. K.M. Nataraj fairly stated that the parties had exchanged their affidavits. However, respondents had taken a plea that writ petitions related to a money claim, which had become barred by time, therefore, writ petition was not maintainable.

8. Be that as it may, the High Court has not dealt with the merits of the writ petition. **Moreover, it is not an inviolable rule that no money claim can be adjudicated upon in exercise of writ jurisdiction. Non-payment of admitted dues, *inter alia*, may be considered an arbitrary action on the part of respondents and for claiming the same, a writ petition may lie.¹ Further, throwing a writ petition on ground of availability of alternative remedy after 10 years, particularly, when parties have exchanged their affidavits, is not the correct course unless there are disputed questions of fact which by their very nature cannot be adjudicated upon without recording formal evidence².**

9. The High Court, in the impugned orders, has not set out any factual foundation of the kind which may suggest that there were disputed questions of fact that necessitated recording of evidence.

10. In these circumstances, we are of the view that the writ petition must be restored for fresh adjudication by the High Court. Consequently, we set aside the order of the High Court and restore

1 1 Surya Constructions v. State of Uttar Pradesh and others, (2019) 16 SCC 794; See also: Unitech Ltd. and others v. Telangana State Industrial Infrastructure Corporation (TSIIC) and Others, (2021) 16 SCC 35; Joshi Technologies International Inc v. Union of India and Others, (2015) 7 SCC 728

2 2 Dr. Bal Krishna Agarwal v. State of UP and others, (1995) 1 SCC 614 (para 10); Durga Enterprises (P) Ltd. and another v. Principal Secretary, Govt. of U.P. & others, (2004) 13 SCC 665.

the Writ Petition to its original number(s) for fresh adjudication in accordance with law.

11. The Civil Appeal is disposed of in the above terms.

12. Pending application(s), if any, shall stand disposed of.

Civil Appeal No. _____ of 2025
(@Special Leave Petition (C) No.15596/2022)

Leave granted.

2. This Civil Appeal is also disposed of with the same observations and directions in terms of the order passed in Civil Appeal No. _____ of 2025 @Special Leave Petition (C) No.14350/2022.

3. Pending application(s), if any, shall stand disposed of.

....., J.
[MANOJ MISRA]

....., J.
[MANMOHAN]

NEW DELHI;
JANUARY 08, 2025.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.14350/2022

[Arising out of impugned final judgment and order dated 15-03-2022 in WP(C) No.8037/2011 passed by the High Court of Orissa at Cuttack]

M/S UTKAL HIGHWAYS ENGINEERS AND CONTRACTORS

Petitioner(s)

VERSUS

CHIEF GENERAL MANAGER & ORS.

Respondent(s)

WITHSLP(C) No. 15596/2022 (XI-A)

Date : 08-01-2025 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MANOJ MISRA
HON'BLE MR. JUSTICE MANMOHAN

For Petitioner(s) Mr. Avijit Patnaik, Adv.
Ms. Bhabna Das, AOR
Mr. Shuvra Mohapatra, Adv.
Mr. Vishnu Kanth Mundada, Adv.

For Respondent(s) Mr. K.M. Nataraj, A.S.G.
Mr. Vinayak Sharma, Adv.
Ms. Mudita Aroar, Adv.
Mr. Parijat Kishore, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The Civil Appeals are disposed of in terms of the Signed Order placed on the file.
3. Pending application(s), if any, shall stand disposed of.

(VIJAY KUMAR)
COURT MASTER (SH)

(MAMTA RANI)
BRANCH OFFICER