

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSSPECIAL LEAVE PETITION (CIVIL) DIARY NO(S). 55784/2024

[Arising out of impugned final judgment and order dated 22-08-2024 in ARB. A No. 09/2023 passed by the Court of the District Judge, Khurda at Bhubaneswar]

UNITED INDIA INSURANCE COMPANY LIMITED

Petitioner(s)

VERSUS

ODISHA HYDRA POWER CORPORATION LTD.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.292734/2024-CONDONATION OF DELAY IN FILING)

Date : 06-01-2025 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) Ms. Awantika Manohar, AOR
Ms. Parul Dhurvey, Adv.

For Respondent(s) Mr. Shibashish Misra, AOR

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

Heard the learned counsel appearing for the petitioner.

Delay condoned.

Our attention is invited to a view taken by this Court in paragraph 17 of the decision in the case of *Deep Industries Limited vs. Oil and Natural Gas Corporation Limited & Anr.*¹. Paragraph 17 reads thus:

"17. This being the case, there is no doubt whatsoever that if petitions were to be filed under Articles 226/227 of the Constitution against orders passed in appeals under Section 37, the entire arbitral process would be derailed and would not

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come to fruition for many years. At the same time, we cannot forget that Article 227 is a constitutional provision which remains untouched by the non obstante clause of Section 5 of the Act. In these circumstances, what is important to note is that though petitions can be filed under Article 227 against judgments allowing or dismissing first appeals under Section 37 of the Act, yet the High Court would be extremely circumspect in interfering with the same, taking into account the statutory policy as adumbrated by us hereinabove so that interference is restricted to orders that are passed which are patently lacking in inherent jurisdiction."

When an arbitral award is confirmed in a petition under Section 34 and in an appeal under Section 37 of the Arbitration and Conciliation Act, 1996, even this Court while exercising jurisdiction under Article 136 of the Constitution of India has to be circumspect. As a remedy under Article 226/227 of the Constitution is available to the petitioner to challenge the impugned judgment, we dispose of the Special Leave Petition by permitting the petitioner to avail the remedy before the High Court under Article 226/227 of the Constitution. In the event, an adverse order is passed in the petition which may be filed by the petitioner under Article 226/227 of the Constitution, it will be always open for the petitioner to challenge the said order before this Court in accordance with law.

Pending applications stand disposed of accordingly.

(ASHISH KONDLE)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)