



HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.29 of 2025

Shri Raju Rabi Das, L.D.C. (Guarantor),
S/O. Lt. Ratan Rabi Das,
Bidrohi Kabi Nazrul Vidya Bhawan H.S. School,
Jogendranagar, Agartala, West Tripura,
PIN-799004,
Residing at:
Chandrapur, P.O.- Resham Bagan, P.S.- East Agartala,
West Tripura, PIN-799001.
.... **Petitioner(s).**

Versus

- 1. The Managing Director,**
Tripura Scheduled Caste Co-Op. Dev. Corpn. Ltd.,
Lake Chowmuhani, Krishnanagar,
Agartala, West Tripura, PIN-799001.
- 2. The General Manager,**
Tripura Scheduled Caste Co-Op. Dev. Corpn. Ltd.,
Lake Chowmuhani, Krishnanagar,
Agartala, West Tripura, PIN-799001.
- 3. The Head Master,,**
Bidrohi Kabi Nazrul Vidya Bhawan H.S. School,
Jogendranagar, West Tripura, PIN-799004.
- 4. Shri Suman Das (Beneficiary),**
S/O- Shri Narad Das,
Vill.- Chandrapur, P.O.- Resham Bagan,
P.S.- East Agartala, District- West Tripura,
PIN-799001.

.....**Respondent(s).**

For Petitioner(s)	:	Mr. Prasanta Kr. Pal, Adv. Mr. Saugat Datta, Adv. Mr. Hiralal Debbarma, Adv. Ms. Madhurima Chanda, Adv. Ms. Maitri Majumder, Adv.
For Respondent(s)	:	Mr. Mangal Debbarma, Addl. G.A. Mr. Dulal Ch. Saha, Adv.
Date of Hearing & Delivery of Judgment and Order	:	27.04.2026
Whether fit for Reporting	:	NO

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order (Oral)

Heard Learned Counsel, Mr. P. K. Pal appearing on behalf of the petitioner. Also heard Learned Addl. G.A., Mr. M. Debbarma appearing on behalf of the respondent Nos.1 and 2 and Learned Counsel, Mr. D. Ch. Saha appearing on behalf of respondent No.3. But none appeared on behalf of respondent No.4 inspite of service of notice.

02. The petitioner has filed this writ petition seeking the following relief(s):-

- (i) **Admit the Writ Petition.**
- (ii) **Call for Record (from the S.C. Co-op. Dev. Corpn. Ltd.);**
- (iii) **Issue writ in the nature of mandamus upon the respondents to show cause as to why the letters dated 28.03.2024 (Annexure-5) supra and letter dated 09.07.2024 (Annexure-7) supra should not be set aside and to be quashed;**

AND

- (iv) **Issue direction upon the respondents to act upon the terms and condition at Sl. No.12 and Sl. No.17 of the Composite Term Loan agreement (Annexure-3) supra and make recovery of the loan amount from the sale proceeds, and in case of any deficiency, then the deficiency amount shall be collected/recovered from the guarantor by way of deducting the amount from his monthly salary bill;**

AND

- (v) **Pass an interim order, staying the operation of the letter dated, 28.03.2024 (Annexure-5) supra and letter dated 09.07.2024 (Annexure-7) respectively pending disposal of this writ petition.**

AND

- (vi) **After hearing both the parties, make the rule / writ absolute.**

AND

(vii) To pass any other relief / reliefs which your Lordship may deem fit and proper in this case.

03. At the time of hearing, Learned Counsel for the petitioner submitted that the petitioner stood as guarantor on behalf of respondent No.4 who took a sum of Rs.2,85,000/- (Rupees Two Lakhs Eighty Five Thousand) as loan from the respondent Nos.1 and 2 and accordingly an agreement was executed and as the respondent No.4 defaulted in making payment of loan amount to the respondent Nos.1 and 2 for which General Manager, Tripura Scheduled Castes Co-Operative Development Corporation Ltd. [**Annexure-5**] by a communication to respondent No.3 urged for deduction of Rs.10,000/- from the monthly salary of the petitioner who is serving as L.D.C. to the office of respondent No.3.

04. It was further submitted that in this regard no notice was issued by respondent Nos.1 and 2 either to the petitioner informing that the respondent No.4 defaulted in making payment of loan. Even no notice also has been issued by respondent No.3 upon the petitioner informing the said fact.

05. Learned Counsel appearing for the petitioner further drawn the attention of the Court that the respondent Nos.1 and 2 before proceeding further ought to have exhaust the process of Clause No.12 and 17 of the agreement for composite term loan. But without exhausting the same there was no scope on the part of respondent Nos.1 and 2 to issue such communication [**Annexure-5**] dated 28.03.2024 for

which the petitioner has been compelled to file this writ petition before this Court seeking relief(s).

06. On the other hand, Learned Addl. G.A., Mr. M. Debbarma appearing on behalf of respondent Nos.1 and 2 drawn the attention of the Court Clause No.7 of the agreement and submitted that until and unless the Clause No.7 is exhausted there is no scope to proceed to recover the amount in pursuance of Clause No.12 and 17 of the said agreement. But the Learned Counsel fairly admitted that no notice has been issued upon the petitioner by respondent Nos.1 and 2 by this time.

07. Learned Counsel, Mr. D. Ch. Saha appearing on behalf of respondent No.3 also drawn the attention of the Court that in pursuance of communication dated 28.03.2024 [**Annexure-5**] issued by the General Manager, Tripura Scheduled Castes Co-Operative Development Corporation Ltd. to the respondent No.3, no intimation has been given by the said respondent to the petitioner regarding recovery of amount.

08. Heard both the parties at length and perused the writ petition along with the documents annexed with the writ petition as well as the counter-affidavit filed by the contesting respondents.

09. There is no dispute on record that the present petitioner stood as guarantor on behalf of respondent No.4 for an amount of Rs.2,85,000/- and for that an agreement was

executed which was duly signed by the General Manager, Tripura Scheduled Castes Co-Operative Development Corporation Ltd. on behalf of the respondent Nos.1 and 2, the borrower i.e. respondent No.4 herein and the guarantor i.e. the present petitioner herein. In the said agreement in Clause 7 the following assertions have been made:-

"7. In case, the borrower fails to repay the entire loan money with interest or make payment of consecutive 3 (three) installments, the Guarantor shall be liable to pay the loan with interest and the DDO of the Guarantor shall be directed to recover the same from the salary of the Guarantor and to remit the recovered money to the General Manager, Tripura, Sch. Castes Co-operative Development Corporation Ltd."

In the aforesaid clause it appears that in case the borrower fails to repay the entire loan money with interest or make payment of consecutive three installments then the guarantor shall be liable to pay the loan with interest and the DDO of the guarantor shall be directed to recover the same from the salary of the guarantor and to remit the recovered money to General Manager, Tripura Scheduled Castes Co-Operative Development Corporation Ltd. Thus, from the aforesaid Clause it is clear that in the event of default of payment by the borrower the guarantor shall be liable.

10. Thus it appears in case of default of three consecutive installments by the borrower the guarantor shall be liable to pay the loan money with interest. But surprisingly in this case, no intimation has been given to the guarantor by the respondent Nos.1 and 2 that the respondent No.4 has been

defaulted in making payment of loan with interest to the respondent Nos.1 and 2.

11. Further as submitted by Learned Counsel for the petitioner let us reproduce herein below the relevant Clause 12 and 17 of the agreement which are as follows:-

"12. In case, the Borrowers fails to repay the outstanding loan with interest, the Corporation shall have the right to take possession of all or any of the hypothecated goods and to sell and dispose of the same whether by public auction or by private treaty or otherwise or either in the local market. All charges and expenses of such sale shall be debited to the Borrow's Account covered by this Agreement. The Borrower will also accept the same as correct and sing by him on such documents. The net proceeds of such sale shall be credited to the account of the Corporation as payment to the repayment of the outstanding loan with interest or in reduction to the balance in he account with the Corporation. The Corporation shall be or at liberty to apply any money or moneys in the hand of the Corporation standing to the credit or belong to the borrower in or towards the balance in the account due to the Corporation and thereafter in any further 1 balance in the account be due to the Borrower shall forthwith pay to the Corporation, the ultimate balance thus remaining due and the same shall be recovered from the Guarantor's as per Letter of Guarantee executed by the Guarantor.

17. The Borrower declares that the hypothecated goods are the properties of the Corporation over which the Corporation has the full right to sell for recovery of the loan with interest and/or net balances remaining in the account of the Borrower."

From the aforesaid Clauses it appears that in case of failure on the part of the borrower to repay the outstanding loan with interest. The corporation shall at the right to take possession of the hypothecated goods and to sell and to dispose of the same by public auction to recover the amount and Clause 17 is also connected to Clause 12. But surprisingly

in this case without exhausting the process of Clause 7 there is no scope to proceed to apply Clause 12 and 17 of the agreement by the respondent Nos.1 and 2.

12. Here in this case, in course of hearing Learned Counsel fairly submitted that no goods were hypothecated at the time of taking loan by the borrower and as such apparently there is no scope to invoke said clauses in this present matter. Further, it also appears that for recovery of amount from the salary of the petitioner no notice has been issued by respondent Nos.1 and 2 to the petitioner that the respondent No.4 defaulted in making payment of installments. Even no notice has been issued by the respondent No.3 in favour of the petitioner intimating that the said authority has been duly informed by the Corporation to realize the amount from his salary for default of loan amount by respondent No.4. So *prima facie* it appears that no cause of action has been accrued upon the petitioner to seek any redress invoking the jurisdiction of this High Court under Article 226 of the Constitution of India, since any of these aforesaid clauses have not been invoked by the respondent Nos.1 and 2. However, it is mandated that in similar nature of cases the authority of the corporation shall first of all exhaust Clause 7 and thereafter shall proceed to comply Clause 12 and 17 in case of non fulfillment of other clauses. Since the petitioner has failed to make out any case to issue any rule, as such I do not find any merit in the writ petition filed by the petitioner.

Accordingly, the writ petition filed by the petitioner stands dismissed being devoid of merit.

With this observation, this writ petition stands rejected/dismissed.

Pending application/s, if any, also stands disposed of.

JUDGE



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DEB**

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