

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7346 of 2004

Kislay Grih Nirman Swawlambi Sahkari Samiti Ltd. through its chief Executive Mrs. Kamala Lal W/o Mr. Someshwar Lal, 309-B, Fifth Floor Adharshila Complex, South Gandhi Maidan, Patna P.S. Gandhi Maidan, Patna Dist. Patna.

.... Petitioner

Versus

1. The State of Bihar through Secretary Cooperative Department Govt. of Bihar New Secretariat, Patna.
2. The Registrar of Cooperative societies Bihar, Patna
3. The Bihar State Housing Cooperative Federation Ltd. through its Managing Director, Lalit Bhawan, Jawahar Lal Nehru Marg Patna.
4. The Joint Director, Bihar State Housing Cooperative Federation Ltd. Lalit Bhawan Jawahar Lal Nehru Marg, Patna

.... Respondents

Appearance :

For the Petitioner : Mr. Naresh Dixit, Advocate

For the Respondents : Mr. Purushottam Jha, Advocate.

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 20-08-2015

Heard Mr. Naresh Dixit counsel for the petitioner and Mr. Purushottam Jha for the respondent Bihar State Housing Cooperative Federation Limited (for short 'the Federation').

Petitioner is a cooperative society affiliated to the Federation. By dint of such affiliation, the petitioner qualifies for the loan advance on easy terms under the agreement. A sum of Rs. 50,00,000/- was advanced by the respondent- Federation to the petitioner society on 30.4.2001. The petitioner kept on paying the instalments for liquidation of loan. On 20.2.2004 the respondent- Federation came out with one time settlement scheme (O.T.S.) under which the member societies were entitled to apply or to opt and get the benefit(s) arising therefrom. The said OTS scheme lapsed on 31.5.2004. The petitioner society is said to have applied/opted for

the said scheme (O.T.S.) on 4.3.2004. As per the calculation of the petitioner Society a sum of Rs. 12 lakhs and odd was only outstanding to be paid by the petitioner Society under the said scheme to the respondent- Federation for liquidation of the entire loan amount. For one reason or the other the Federation did not accept the offer. This propelled the petitioner to file the present writ petition alleging that in similar/identical circumstance(s) respondent Federation had permitted the other affiliated Housing Society to avail the benefits of OTS floated by the respondent Federation on 20.2.2004.

After making some submissions both the parties have agreed that the petitioner society shall be allowed to avail the OTS floated on 20.2.2004 and to pay the outstanding dues in one lump-sum as per the calculation of the dues in the light of the said O.T.S. This takes the court to the next relevant question as to the exact amount which the petitioner would be entitled to pay and the respondent – Federation would be entitled to receive under the OTS of the year 2004. Mr. Jha, counsel for the respondent- Federation, has submitted that indisputably the amount which the petitioner society is now liable to pay under the OTS scheme of 2004 was retained by the society. The Federation would, therefore, be entitled to payment of interest on the amount which is ascertained payable by the petitioner society to the respondent- Federation. Mr. Dixit, on the other hand, highlights the poor financial condition of the petitioner

society. He also states that it was due to arbitrary action of the respondent Federation that the petitioner society could not pay off the dues as per O.T.S.

Upon considering the submissions of the parties, in my view, the petitioner society shall be entitled to pay simple interest at the rate of 8% w.e.f. 1st June 2004 to the respondent Federation till the dues are paid over and above the actual amount the parties will calculate with the help of each other strictly in the light of the provisions contained in the OTS scheme floated or enforced on 20.2.2004. Once the actual calculation is done, together with interest payable thereon the petitioner society shall deposit the amount in the account of the respondent Federation and thereafter no dues certificate shall be issued in favour of the petitioner society forthwith by the respondent-Federation. Both parties shall comply with this order within four months from today .

(Kishore Kumar Mandal, J)

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