

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 370 of 2016**

- Chhattisgarh Rajya Sahakari Aavas Sangh Maryadit Through Senior Aavas Supervisor And Officer In Charge C 1, 191 First Floor, Tagore Nagar, District Raipur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary Cooperative Department, Mahanadi Bhavan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh
2. Joint Registrar, Cooperative Societies Raipur Division District Raipur Chhattisgarh
3. Deputy Registrar Cooperative Society, Raipur, District Raipur Chhattisgarh
4. Indira Gandhi Nirman Sahakari Samiti Maryadit, Through Officer In Charge, Navapara, Tahsil Rajim District Gariyaband, Chhattisgarh
5. Anand Ram, S/o Morandmal, R/o Ganj Road, Navapara, Tahsil Rajim District Gariyaband Chhattisgarh

---- Respondent**And****WPC No. 328 Of 2016**

- Chhattisgarh Rajya Sahakari Aavas Sangh Maryadit Through Senior Aavas Supervisor And Officer In Charge At Present, Office At C - 1, 191 First Floor, Tagore Nagar, District Raipur (Chhattisgarh).

---- Petitioner**Vs**

1. State Of Chhattisgarh Through Its Secretary Cooperative Department, Mantralaya Mahanadi Bhawan, Naya Raipur District Raipur (Chhattisgarh).
2. Joint Registrar, Cooperative Societies Raipur Division District Raipur (Chhattisgarh).

3. Deputy Registrar, Cooperative Society Raipur District Raipur (Chhattisgarh).
4. Indira Griha Nirman Sahakari Samiti Maryadit, Through Officer In Charge, Navapara, Tahsil Rajim District Gariyaband (Chhattisgarh).
5. Ashok Kumar, S/o Late Baksharam, Aged About 52 Years R/o Ganj Road, Navapara, Tahsil Rajim Distt. Gariyaband Chhattisgarh.
6. Harish Kumar S/o Late Baksharam Aged About 50 Years R/o Ganj Road, Navapara, Tahsil Rajim Distt. Gariyaband Chhattisgarh.
7. Ramesh Kumar S/o Late Baksharam Aged About 48 Years R/o Ganj Road, Navapara, Tahsil Rajim Distt. Gariyaband Chhattisgarh.

---- Respondent

And

WPC No. 416 Of 2016

- Chhattisgarh Rajya Sahakari Aavas Sangh Maryadit Through Senior Aavas Supervisor And Officer In Charge At Present, Officer At C- 1, 191 First Floor, Tagore Nagar, Distt. Raipur Chhattisgarh.

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary Cooperative Department, Mahanadi Bhawan, Mantralaya, Naya Raipur Distt. Raipur (Chhattisgarh)
2. Joint Registrar, Cooperative Societies, Raipur Division Distt. Raipur Chhattisgarh.
3. Deputy Registrar Cooperative Society Raipur Distt. Raipur (Chhattisgarh)
4. Indira Griha Nirman Sahakari Samiti Maryadit, Through Officer In Charge, Navapara, Tahsil Rajim Distt. Gariyaband (Chhattisgarh)
5. Dharamchand, S/o Aadataimal, R/o Ganj Road, Navapara, Tahsil Rajim Distt. Gariyaband Chhattisgarh.

---- Respondent

And

WPC No. 322 Of 2016

- Chhattisgarh Rajya Sahakari Aavas Sangh Maryadit Through Senior Aavas Supervisor And Officer In Charge At Present, Office At C - 1, 191 First Floor, Tagore Nagar, District Raipur (Chhattisgarh).

---- **Petitioner**

Vs

1. State Of Chhattisgarh Through Its Secretary Cooperative Department, Mantralaya Mahanadi Bhawan, Naya Raipur District Raipur (Chhattisgarh).
2. Joint Registrar, Cooperative Societies Raipur Division District Raipur (Chhattisgarh).
3. Deputy Registrar, Cooperative Society Raipur District Raipur (Chhattisgarh).
4. Indira Griha Nirman Sahakari Samiti Maryadit, Through Officer In Charge, Navapara, Tahsil Rajim District Gariyaband (Chhattisgarh).
5. Gopal Das S/o Khairajmal, R/o Ganj Road, Navapara, Tahsil Rajim, District Gariyaband (Chhattisgarh).

---- **Respondent**

And

WPC No. 317 Of 2016

- Chhattisgarh Rajya Sahakari Aavas Sangh Maryadit Through Senior Aavas Supervisor And Officer In Charge C- 1, 191 First Floor, Tagore Nagar, Distt. Raipur Chhattisgarh.

---- **Petitioner**

Vs

1. State Of Chhattisgarh Through Its Secretary Cooperative Department, Mantralaya, Mahanadi Bhawan, Naya Raipur Distt. Raipur Chhattisgarh.
2. Joint Registrar, Cooperative Societies Raipur Division Distt. Raipur Chhattisgarh.
3. Deputy Registrar Cooperative Society Raipur Distt. Raipur (Chhattisgarh)
4. Indira Griha Nirman Sahakari Samiti Maryadit, Through Officer In Charge, Navapara, Tahsil Rajim Distt. Gariyaband (Chhattisgarh)

5. Amit Kumar, S/o Lakhiram, R/o Ganj Road, Navapara, Tahsil Rajim Distt. Gariyaband Chhattisgarh.

---- Respondent

And

WPC No. 372 Of 2016

- Chhattisgarh Rajya Sahakari Aavas Sangh Maryadit Through Senior Aavas Supervisor And Officer In Charge C 1, 191 First Floor, Tagore Nagar, District Raipur Chhattisgarh

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary Cooperative Department, Mahanadi Bhavan, Mantralaya, Naya Raipur, Distt. Raipur, (Chhattisgarh)
2. Joint Registrar, Cooperative Societies Raipur Division District Raipur Chhattisgarh
3. Deputy Registrar Cooperative Society, Raipur, District Raipur Chhattisgarh
4. Indira Griha Nirman Sahakari Samiti Maryadit, Through Office In Charge, Navapara, Tahsil Rajim, District Gariyaband Chhattisgarh
5. Gurmukh Das S/o Manikmal R/o Ganj Road, Navapara, Tahsil Rajim District Gariyaband Chhattisgarh

---- Respondent

And

WPC No. 318 Of 2016

- Chhattisgarh Rajya Sahakari Aavas Sangh Maryadit Through Senior Aavas Supervisor And Officer In Charge, C-1, 191 First Floor, Tagore Nagar, Distt. Raipur, (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Cooperative Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, Distt. Raipur, (Chhattisgarh)

2. Joint Registrar, Cooperative Societies, Raipur Division, Distt. Raipur, (Chhattisgarh)
3. Deputy Registrar, Cooperative Society, Raipur, Distt. Raipur, (Chhattisgarh)
4. Indira Griha Nirman Sahakari Samiti, Maryadit, Through Officer In Charge, Navapara, Tahsil Rajim, Distt. Gariyaband, (Chhattisgarh)
5. Premchand, S/o Aadatmal, R/o Ganj Road, Navapara, Tahsil Rajim, Distt. Gariyaband, (Chhattisgarh)

---- Respondent

And

WPC No. 371 Of 2016

- Chhattisgarh Rajya Sahakari Aavas Sangh Maryadit Through Senior Aavas Supervisor And Officer In Charge at present office at C 1, 191 First Floor, Tagore Nagar, District Raipur Chhattisgarh

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary Cooperative Department Mantralaya Mahanadi Bhavan Naya Raipur District Raipur Chhattisgarh
2. Joint Registrar, Cooperative Societies Raipur Division District Raipur Chhattisgarh
3. Deputy Registrar Cooperative Society, Raipur, District Raipur Chhattisgarh
4. Indira Gandhi Nirman Sahakari Samiti Maryadit, Through Officer In Charge, Navapara, Tahsil Rajim District Gariyaband Chhattisgarh
5. Murlidhar, S/o Metharam, R/o Ganj Road, Navapara, Tahsil Rajim District Gariyaband Chhattisgarh

---- Respondent

And

WPC No. 320 Of 2016

- Chhattisgarh Rajya Sahakari Aavas Sangh Maryadit Through Senior Aavas Supervisor And Officer In Charge At Present Officer At C-1, 191 First Floor, Tagore Nagar, Distt. Raipur, (Chhattisgarh)

---- **Petitioner**

Vs

1. State Of Chhattisgarh Through Its Secretary, Cooperative Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, Distt. Raipur, (Chhattisgarh)
2. Joint Registrar, Cooperative Societies, Raipur Division, Distt. Raipur, (Chhattisgarh)
3. Deputy Registrar, Cooperative Society, Raipur, Distt. Raipur, (Chhattisgarh)
4. Indira Griha Nirman Sahakari Samiti, Maryadit, Through Officer In Charge, Navapara, Tahsil Rajim, Distt. Gariyaband, (Chhattisgarh)
5. Ashok Kumar, S/o Late Pratap Rai, Aged About 51 Years R/o Ganj Road, Navapara, Tahsil Rajim, Distt. Gariyaband, (Chhattisgarh)

---- **Respondent**

And

WPC No. 440 Of 2016

- Chhattisgarh Rajya Sahakari Aavas Sangh Maryadit Through Senior Aavas Supervisor And Officer In Charge At Present, Officer At C- 1, 191 First Floor, Tagore Nagar, Distt. Raipur (Chhattisgarh).

---- **Petitioner**

Vs

1. State Of Chhattisgarh Through Its Secretary Cooperative Department, Mantralaya, Mahanadi Bhawan, Naya Raipur Distt. Raipur (Chhattisgarh)
2. Joint Registrar, Cooperative Societies Raipur Division Distt. Raipur Chhattisgarh.
3. Deputy Registrar Cooperative Society Raipur Distt. Raipur (Chhattisgarh)
4. Indira Griha Nirman Sahakari Samiti Maryadit, Through Officer In Charge, Navapara, Tahsil Rajim Dist. Gariyaband (Chhattisgarh)
5. Moti Singh, S/o Late Indersingh, Aged About 47 Years R/o Ganj Road, Navapara, Tahsil Rajim Distt. Gariyaband Chhattisgarh.

6. Amar Singh S/o Late Indersingh Aged About 45 Years R/o Ganj Road, Navapara, Tahsil Rajim Distt. Gariyaband Chhattisgarh.
7. Prakash Singh S/o Late Indersingh Aged About 44 Years R/o Ganj Road, Navapara, Tahsil Rajim Distt. Gariyaband Chhattisgarh.
8. Anand Singh S/o Late Indersingh Aged About 41 Years R/o Ganj Road, Navapara, Tahsil Rajim Distt. Gariyaband Chhattisgarh.
9. Kartar Singh S/o Late Indersingh Aged About 38 Years R/o Ganj Road, Navapara, Tahsil Rajim Distt. Gariyaband Chhattisgarh.

---- Respondent

And

WPC No. 381 Of 2016

- Chhattisgarh Rajya Sahakari Aavas Sangh Maryadit Through Senior Aavas Supervisor And Office In Charge At Present, Officer At C-1, 191, First Floor, Tagore Nagar, Distt. Raipur, (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Cooperative Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, Distt. Raipur, (Chhattisgarh)
2. Joint Registrar, Cooperative Societies Raipur Division District Raipur Chhattisgarh
3. Deputy Registrar Cooperative Society, Raipur, District Raipur Chhattisgarh
4. Indira Griha Nirman Sahakari Samiti Maryadit, Through Office In Charge, Navapara, Tahsil Rajim, District Gariyaband Chhattisgarh
5. Karamchand, S/o Aadatmal, R/o Ganj Road, Navapara, Tahsil Rajim, Distt. Gariyaband, (Chhattisgarh)

---- Respondent

And

WPC No. 326 Of 2016

- Chhattisgarh Rajya Sahakari Aavas Sangh Maryadit Through Senior Aavas Supervisor And Officer In Charge At Present, Office At C - 1,

191 First Floor, Tagore Nagar, District Raipur (Chhattisgarh).

---- **Petitioner**

Vs

1. State Of Chhattisgarh Through Its Secretary Cooperative Department, Mantralaya Mahanadi Bhawan, Naya Raipur District Raipur (Chhattisgarh).
2. Joint Registrar, Cooperative Societies Raipur Division District Raipur (Chhattisgarh).
3. Deputy Registrar, Cooperative Society Raipur District Raipur (Chhattisgarh).
4. Indira Griha Nirman Sahakari Samiti Maryadit, Through Officer In Charge, Navapara, Tahsil Rajim District Gariyaband (Chhattisgarh).
5. Sugnamal, S/o Mayaram, R/o Ganj Road, Navapara, Tahsil Rajim, District Gariyaband (Chhattisgarh).

---- **Respondent**

And

WPC No. 433 Of 2016

- Chhattisgarh Rajya Sahakari Aavas Sangh Maryadit Through Senior Avas Supervisor And Officer In Charge At Present, Office At C 1, 191 First Floor, Tagore Nagar, District Raipur Chhattisgarh

---- **Petitioner**

Vs

1. State Of Chhattisgarh Through Its Secretary Cooperative Department Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
2. Joint Registrar, Cooperative Societies Raipur Division District Raipur Chhattisgarh
3. Deputy Registrar Cooperative Society, Raipur, District Raipur Chhattisgarh
4. Indira Gandhi Nirman Sahakari Samiti Maryadit, Through Officer In Charge, Navapara, Tahsil Rajim, District Gariyaband, Chhattisgarh
5. Rajesh Kumar, S/o Late Jeuram, Aged About 42 Years R/o Ganj Road,

Navapara, Tahsil Rajim District Gariyaband, Chhattisgarh

---- Respondent

And

WPC No. 430 Of 2016

- Chhattisgarh Rajya Sahakari Aavas Sangh Maryadit Through Senior Aavas Supervisor And Officer In Charge C-1, 191 First Floor, Tagore Nagar, Distt. Raipur, (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Cooperative Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Distt. Raipur, (Chhattisgarh)
2. Joint Registrar, Cooperative Societies Raipur Division Distt. Raipur Chhattisgarh.
3. Deputy Registrar Cooperative Society Raipur Distt. Raipur (Chhattisgarh)
4. Indira Griha Nirman Sahakari Samiti Maryadit, Through Officer In Charge, Navapara, Tahsil Rajim Distt. Gariyaband (Chhattisgarh)
5. Ram Chand, S/o Aadatmal, R/o Ganj Road, Navapara, Tahsil Gariyaband, Distt. Raipur, Chhattisgarh.

---- Respondent

For Petitioner : Shri Parag Kotecha, Advocate.

For Respondent/State : Shri Arun Sao, Deputy A.G.

For Respondent No.5 in WPC No.381/2016 : Shri Adhiraj Surana, Advocate.

For Respondent No.5/borrower : Shri Aditya Kumar on behalf of Shri R.K. Pali, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

09/08/2016

1. The present writ petitions under Article 226 of the Constitution of India have been preferred by the petitioner – Chhattisgarh Rajya Sahakari Aavas Sangh Maryadit, a registered cooperative society, seeking modification of the order dated 18.8.2015 (Annexure-P/6) passed by the Chhattisgarh State Cooperative Tribunal, Bilaspur (henceforth 'the Tribunal') to direct respondents No.4 & 5 to pay interest at the agreed rate as also the penal interest up to 31.12.2015, total amount in WPC No.370/2016 being Rs.18,52,984/- (total amount is different in other petitions).
2. Since facts of the cases being common in all the writ petitions, the facts of WPC No.370/2016 are referred for brevity and convenience.
3. The petitioner is a society registered under the Chhattisgarh Cooperative Societies Act, 1960 (for short 'the Act, 1960'). The object of the society is to grant loan/advances for construction of houses to the members. Respondent No.4 is a registered primary society under the Act, 1960. Respondent No.5 applied for grant of loan to respondent No.4, who in turn made a request to the petitioner for disbursal of the said loan facility. Respondent No.5 was thereafter granted loan of Rs.26,000/- for 20 years at the rate of 9% interest with additional amount of Rs.15,000/- being sanctioned at the rate of 11.5 %. Respondent No.5 mortgaged a plot in favour of the petitioner and executed an agreement which set forth the terms and conditions of financial assistance/loan.

4. It is the case of the petitioner that as per the terms and conditions, the loan amount was to be paid in quarterly installments. In case of default in repayment of installments, the borrower will pay 3% compound interest from the date of default. Respondent No.5 committed such default and failed to repay the loan, therefore, an application under Section 84-A of the Act, 1960 was moved before the Deputy Registrar, Cooperative Societies in the year 1999. Vide order dated 11.11.2005, the Deputy Registrar directed respondent No.5 to repay the loan amount with 9% simple interest. The order was affirmed in appeal by the Joint Registrar vide its order dated 27.3.2008 against which the petitioner preferred second appeal before the Additional Registrar, who, vide its order dated 15.10.2008 remanded the matter to the Deputy Registrar. Thereafter, the Deputy Registrar again passed the order on 3.3.2011 in the same terms awarding only 9% interest to the petitioner. This order has been affirmed by the Joint Registrar, Deputy Registrar and the Tribunal.
5. It is argued that the petitioner is entitled for compound interest and penal interest, therefore, the cooperative authorities have committed serious error of law in awarding simple interest @ 9% only to the petitioner.
6. Per contra, learned counsel for respondent No.5 would support the impugned order on submission that concurrent order need not be interfered.

7. In the order impugned, the Tribunal has observed that in the application presented before the Court of Registrar/Deputy Registrar, the petitioner has prayed for only 9% interest, therefore, the petitioner is not entitled for interest at the contractual rate. When this observation was brought to the notice of learned counsel for the petitioner, he would produce a copy of the proforma application, which is filed in all the cases to draw attention of the Court to the prayer clause wherein the petitioner has prayed for penal interest @ 3% over and above the interest of 9% & 11.5% which were agreed between the parties. He would submit that, in the teeth of this prayer, the observation made by the Tribunal in para-13 of the impugned order is perverse.
8. Copy of the proforma application submitted by the petitioner before this Court in course of hearing is made part of record of the present writ petition.
9. To counter the petitioner's submission, learned counsel for respondent No.5 would submit that he is not possessed of the said proforma application, therefore, the petitioner cannot be allowed to agitate a new ground.
10. Having heard learned counsel for the parties, it would appear that in the proforma application submitted before the Court of Registrar, there is prayer for awarding interest at the contractual rate of 9% and 11.5%, as also for award of 3% additional penal interest from the date of commission of default in repayment of installment of loan. However,

the said fact has neither been referred nor decided by the Tribunal. Therefore, the matter deserves to be remitted back to the Tribunal for decision afresh after considering the prayer clause in each of the application preferred by the petitioner.

11. It is made clear that this Court has not decided the issue in favour of either of the party and the matter is remitted back to the Tribunal only to consider the rate of interest including the penal interest, if any, for which the petitioner is entitled in terms of prayer made in the application. The remand is made because the Tribunal has observed as if the petitioner has not made any prayer for award of penal interest which is factually incorrect. The matter shall be decided by the Tribunal on its own merits, in accordance with law, after providing proper opportunity of hearing to all the parties.

12. With the aforesaid observations/directions, all the Writ Petitions stand disposed of.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve