

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2566 of 2018

- Chhattisgarh Rajya Sahkari Aavas Sangh Maryadit Through G.P. Yadav, S/o Late C.M. Yadav , Aged 58 Years, Senior Aavas Supervisor And Office Incharge At Present, Officer ar C-1, 191 First Floor, Tagore Nagar District Raipur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Cooperative Department, Mantralaya, Mahanadi Bhawan, New Raipur District Raipur Chhattisgarh
2. Joint Registrar Cooperative Societies Raipur Division District Raipur Chhattisgarh.
3. Deputy Registrar Cooperative Societies Raipur Division, District Raipur Chhattisgarh
4. Indira Grih Nirman Sahkari 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

WPC No. 2558 of 2018

- Chhattisgarh Rajya Sahkari Aavas Sangh Maryadit Through G.P. Yadav S/o Late C.M. Yadav Aged 58 Years, Senior Aavas Supervisor And Office Incharge At Present, Office ar C-1, 191 First Floor, Tagore Nagar District- Raipur, Chattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Cooperative Department, Mantralaya Mahanadi Bhawan, New Raipur, District- Raipur, Chhattisgarh
2. Joint Registrar Cooperative Societies Raipur Division District- Raipur, Chhattisgarh
3. Deputy Registrar Cooperative Societies Raipur, Division District- Raipur, Chhattisgarh

4. Indira Grih Nirman Sahkari Samiti Maryadit Through Officer 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

WPC No. 2560 of 2018

- Chhattisgarh Rajya Sahkari Aavas Sangh Maryadit Through G P Yadav S/o Late C M Yadav Aged 58 Years, Senior Aavas Supervisor And Office Incharge At Present, Officer ar C-1, 191 First Floor, Tagore Nagar District Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Cooperative Department, Mantralaya Mahanadi Bhawan, New Raipur District Raipur, Chhattisgarh
2. Joint Registrar Cooperative Societies Raipur Division District Raipur, Chhattisgarh
3. Deputy Registrar Cooperative Societies Raipur Division District Raipur, Chhattisgarh.
4. Indira Grih Nirman Sahkari Samiti Maryadit Through Officer In Charge, Navapara Tahsil Rajim District Gariyaband, Chhattisgarh
5. Ram Chand S/o Aadatmal R/o Ganj Road Navapara Tahsil Rajim District Gariyaband, Chhattisgarh

---- Respondent

WPC No. 2563 of 2018

- Chhattisgarh Rajya Sahkari Aavas Sangh Maryadit Through- G.P. Yadav S/o Late C.M. Yadav Aged 58 Years, Senior Aavas Supervisor And Office Incharge At Present, Officer ar C-1, 191 First Floor, Tagore Nagar District- Raipur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through- The Secretary Cooperative

Department, Mantralaya Mahanadi Bhawan, New Raipur,
District- Raipur, Chhattisgarh

2. Joint Registrar Cooperative Societies, Raipur Division District- Raipur, Chhattisgarh
3. Deputy Registrar Cooperative Societies Raipur, Division District Raipur, Chhattisgarh.
4. Indira Grih Nirman Sahkari 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

WPC No. 2567 of 2018

- Chhattisgarh Rajya Sahkari Aavas Sangh Maryadit Through G.P. Yadav S/o Late C.M. Yadav Aged 58 Years, Senior Aavas Supervisor And Office Incharge At Present, Office ar C-1, 191 First Floor, Tagore Nagar District- Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Cooperative Department, Mantralaya Mahanadi Bhawan, New Raipur, District- Raipur, Chhattisgarh.
2. Joint Registrar Cooperative Societies Raipur Division District- Raipur, Chhattisgarh
3. Deputy Registrar Cooperative Societies Raipur Division District- Raipur, Chhattisgarh
4. Indira Grih Nirman Sahkari 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

WPC No. 2568 of 2018

- Chhattisgarh Rajya Sahkari Aavas Sangh Maryadit Through G P Yadav S/o Late C M Yadav Aged 58 Years, Senior Aavas Supervisor And Office Incharge At Present, Officer ar C-1, 191 First Floor, Tagore Nagar District Raipur, Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary Cooperative Department, Mantralaya Mahanadi Bhawan, New Raipur District Raipur, Chhattisgarh
2. Joint Registrar Cooperative Societies Raipur Division District Raipur, Chhattisgarh
3. Deputy Registrar Cooperative Societies Raipur Division District Raipur, Chhattisgarh.
4. Indira Grih Nirman Sahkari Samiti Maryadit Through Officer In Charge, Navapara Tahsil Rajim District Gariyaband, Chhattisgarh.
5. Premchand S/o Aadatmal R/o Ganj Road Navapara Tahsil Rajim District Gariyaband, Chhattisgarh.

---- **Respondent**

WPC No. 2573 of 2018

- Chhattisgarh Rajya Sahkari Aavas Sangh Maryadit Through G. P. Yadav S/o Late C.M. Yadav Aged 58 Years. Senior Aavas Supervisor And Office Incharge At Present Officer ar C-1, 191 First Floor, Tagore Nagar District Raipur, Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary Cooperative Department, Mantralaya Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh
2. Joint Registrar Cooperative Societies Raipur, Division District Raipur, Chhattisgarh
3. Deputy Registrar Cooperative Societies Raipur Division District Raipur, Chhattisgarh
4. Indira Grih Nirman Sahkari Samiti Maryadit Through Officer In Charge Navapara, Tahsil Rajim District Gariyaband, Chhattisgarh

5. Ashok Kumar S/o Late Baksharam Aged About 52 Years
6. Harish Kumar S/o S/o Late Baksharam Aged About 50 Years
7. Ramesh Kumar S/o S/o Late Baksharam Aged About 48 Years

R-5 to R-7 R/o Ganj Road Navapara, Tahsil Rajim District
Gariyaband, Chhattisgarh

---- Respondent

WPC No. 2576 of 2018

- Chhattisgarh Rajya Sahkari Aavas Sangh Maryadit Through G.P. Yadav, S/o Late C.M. Yadav Aged 58 Years, Senior Aavas Supervisor And Office Incharge At Present, Officer ar C-1, 191 First Floor, Tagore Nagar District Raipur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Cooperative Department Mantralaya Mahanadi Bhawan, New Raipur District Raipur Chhattisgarh
2. Joint Registrar Cooperative Societies Raipur Division District Raipur Chhattisgarh
3. Deputy Registrar Cooperative Societies Raipur Division District Raipur Chhattisgarh
4. Indira Grih Nirman Sahkari Samiti Maryadit Through Officer In Charge, Navapara Tahsil Rajim District Gariyaband Chhattisgarh
5. Anand Ram S/o Morandamal R/o Ganj Road, Navapara Tahsil Rajim District Gariyaband Chhattisgarh.

---- Respondent

WPC No. 2578 of 2018

- Chhattisgarh Rajya Sahkari Aavas Sangh Maryadit Through G.P. Yadav S/o Late C.M. Yadav Aged 58 Years, Senior Aavas Supervisor And Office Incharge At Present, Officer ar C-1, 191 First Floor, Tagore Nagar District Raipur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Cooperative Department, Mantralaya Mahanadi Bhawan, New Raipur District Raipur Chhattisgarh
2. Joint Registrar Cooperative Societies Raipur Division District Raipur Chhattisgarh
3. Deputy Registrar Cooperative Societies Raipur Division District Raipur Chhattisgarh
4. Indira Grih Nirman Sahkari Samiti Maryadit Through Officer In Charge, Navapara, Tahsil Rajim District Gariyaband Chhattisgarh
5. Ashok Kumar S/o Late Pratap Rai Aged About 51 Years R/o Ganj Road Navapara, Tahsil Rajim District Gariyaband Chhattisgarh.

---- Respondent**WPC No. 2579 of 2018**

- Chhattisgarh Rajya Sahkari Aavas Sangh Maryadit Through G. P. Yadav S/o Late C. M. Yadav Aged About 58 Years. Senior Aavas Supervisor And Office Incharge At Present Officer Ar- C-1, 191 First Floor, Tagore Nagar District Raipur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary Cooperative Department, Mantralaya Mahanadi Bhawan New Raipur, District Raipur, Chhattisgarh
2. Joint Registrar Cooperative Societies Raipur Division District Raipur, Chhattisgarh
3. Deputy Registrar Cooperative Societies Raipur Division District Raipur, Chhattisgarh.
4. Indira Grih Nirman Sahkari Samiti Maryadit Through Officer In Charge, Navapara Tahsil Rajim District Gariyaband, Chhattisgarh
5. Dharamchand S/o Aadatmal R/o Ganj Road, Navapara Tahsil Rajim District Gariyaband, Chhattisgarh

---- Respondent

WPC No. 2597 of 2018

- Chhattisgarh Rajya Sahkari Aavas Sangh Maryadit Through G P Yadav S/o Late C M Yadav Aged 58 Years , Senior Aavas Supervisor And Office Incharge At Present, Officer ar C-1, 191 First Floor, Tagore Nagar District Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary Cooperative Department, Mantralaya Mahanadi Bhawan, New Raipur District Raipur, Chhattisgarh
2. Joint Registrar Cooperative Societies Raipur Division District Raipur, Chhattisgarh
3. Deputy Registrar Cooperative Societies Raipur Division District Raipur, Chhattisgarh
4. Indira Grih Nirman Sahkari Samiti Maryadit Through Officer In Charge, Navapara Tahsil Rajim District Gariyaband, Chhattisgarh
5. Moti Singh S/o Late Inder Singh Aged About 47 Years
6. Amar Singh S/o Late Inder Singh Aged About 45 Years
7. Prakash Singh S/o Late Inder Singh Aged About 44 Years
8. Anand Singh S/o Late Inder Singh Aged About 41 Years
9. Kartar Singh S/o Late Inder Singh Aged About 38 Years

R-5 to R-9 R/o Ganj Road Navapara Tahsil Rajim District Gariyaband, Chhattisgarh

---- Respondent**WPC No. 2632 of 2018**

- Chhattisgarh Rajya Sahkari Aavas Sangh Maryadit Through G.P. Yadav S/o Late C.M. Yadav Aged 58 Years, Senior Aavas Supervisor And Office Incharge At Present, Officer ar C-1, 191 First Floor, Tagore Nagar District Raipur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary Cooperative

Department, Mantralaya Mahanadi Bhawan, New Raipur
District Raipur Chhattisgarh

2. Joint Registrar Cooperative Societies Raipur Division District Raipur Chhattisgarh,
3. Deputy Registrar Cooperative Societies Raipur Division District Raipur Chhattisgarh.
4. Indira Grih Nirman Sahkari 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

WPC No. 2646 of 2018

- Chhattisgarh Rajya Sahkari Aavas Sangh Maryadit Through G.P. Yadav S/o Late C.M Yadav Aged 58 Years, Senior Aavas Supervisor And Office Incharge At Present, Officer Ar C-1, 191 First Floor, Tagore Nagar Distt. Raipur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Cooperative Department, Mantralaya Mahanadi Bhawan, New Raipur District Raipur Chhattisgarh
2. Joint Registrar Cooperative Societies Raipur Division District Raipur Chhattisgarh
3. Deputy Registrar Cooperative Societies Raipur Division District Raipur Chhattisgarh
4. Indira Grih Nirman Sahkari Samiti Maryadit Through Officer In Charge, Navapara Tahsil Rajim, District Gariyaband Chhattisgarh
5. Karamchand S/o Aadatmal R/o Ganj Road Navapara Tahsil Rajim District Gariyaband Chhattisgarh,

---- Respondent

WPC No. 3050 of 2018

- Chhattisgarh Rajya Sahkari Aavas Sangh Maryadit Through G.P.

Yadav S/o Late C.M. Yadav Aged 58 Years, Senior Aavas Supervisor And Office Incharge At Present, Officer ar C-1, 191 First Floor, Tagore Nagar, District - Raipur, Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary Co-operative Department, Mantralaya Mahanadi Bhawan, New Raipur, District - Raipur, Chhattisgarh
2. Joint Registrar Cooperative Societies Raipur Division District - Raipur, Chhattisgarh
3. Deputy Registrar Cooperative Societies Raipur Division District - Raipur, Chhattisgarh
4. Indira Grih Nirman Sahkari Samiti Maryadit Through Officer In Charge, Navapara, Tahsil Rajim, District - Gariyaband, Chhattisgarh.
5. Amit Kumar S/o Lakhiram R/o Ganj Road Navapara, Tahsil Rajim, District - Gariyaband, Chhattisgarh.

---- **Respondent**

For Petitioners
For Respective
Respondents

Mr. Shakti Raj Sinha, Advocate

Mr. Alok Bakshi, Additional Advocate
General and Mr. Awadh Tripathi, Advocate

Order On Board By

Hon'ble Mr. Justice Prashant Kumar Mishra

15/1/2019

1. Heard.
2. Challenge in this batch of petitions is to the separate orders passed by the Chhattisgarh State Cooperative Tribunal dismissing the Revision Applications of the petitioner, by which, it had prayed for allowing the whole of its claim for recovery of

its outstanding loan amount against the private respondents.

3. The facts and issues involved being common in nature in all the above writ petitions, they are disposed of by this common order.
4. The pleadings and documents in WPC No.2566/2018 is referred for brevity and convenience.
5. The private respondents obtained housing loan from the petitioner, which is a Society registered under the Chhattisgarh Cooperative Societies Act, 1960 (hereinafter referred to as "the Act, 1960"). The object of the Society is to grant loan/advances for construction of houses to its members. Respondent No.4 is the registered Primary Society under the Act, 1960. The private respondents applied for loan to respondent No.4, who, in turn, made a request to the petitioner for disbursement of the said loan amount. On such request being made, the private respondents were granted loan through respondent No.4-Society to be paid within 20 years with interest @ 9% per annum and penal interest @ 3% when there is any default in payment of the installments. The rate of interest varies in some cases i.e. 11.5% or 12.5% respectively.
6. Respondent No.5 and like borrowers mortgaged their plots in favour of the petitioner and executed an agreement containing terms and conditions, on which, the loan has been sanctioned and disbursed. On failure of the borrowers to repay the loan, recovery proceedings were initiated against all the borrowers before the Deputy Registrar, Cooperative Societies. The Deputy

Registrar allowed the application along with interest @ 9% but rejected the prayer for grant of penal interest @ 3% per annum. The order was affirmed in appeal by the Joint Registrar and on Second Appeal preferred by the petitioner before the Additional Registrar, the said authority remitted the matter back to the Deputy Registrar vide its order dated 15.10.2008. Thereafter, the Deputy Registrar again passed an order on 3.3.2011 maintaining its previous order and this second order of Deputy Registrar has again been affirmed by the Joint Registrar.

7. In an earlier round of litigation, the Chhattisgarh State Cooperative Tribunal also maintained the order(s) passed by the Deputy Registrar, Joint Registrar and Additional Registrar, but WPC No.370 of 2016 and other connected petitions preferred by the petitioner were allowed by this Court and the matter was remitted back to the Tribunal for fresh consideration. The remand was made for the reason that the Cooperative Tribunal had rejected the petitioner's appeal on the ground that there was no prayer in the recovery application for allowing the penal interest @ 3% per annum but since the application had such a prayer, the matter was remanded.
8. After the matter was remanded, the Cooperative Tribunal again rejected the appeals by the impugned orders by holding that the petitioner has failed to place on record the statement of accounts proving default made by respondent No.5 in making payment of the amount of installments.
9. It is argued by learned counsel for the petitioners that in the

recovery application, allegations were made that the borrowers had failed to make payment of the installments and the said pleadings have been admitted in the reply filed by the borrowers. Therefore, an admitted fact is not required to be proved further.

10. I have heard learned counsel for the parties at length and perused the record.

11. Para 4 of the recovery application pleads that the borrowers have failed to make payment of the principal, interest, penal rent and installments and in reply to this part of the pleadings, the borrowers specifically admitted in so many words that due to adverse financial condition they have committed default in repaying the installments. Thus, non-payment of the installments is an admitted position before the Deputy Registrar.

12. Once it is found that the Agreement contains a clause authorizing the petitioner to recover penal interest @ 3% per annum and such pleadings of default in payment of installments have been made in the application, which have been admitted by the borrowers in their reply before the Deputy Registrar, the finding recorded by the Cooperative Tribunal that the petitioner has failed to prove non-payment of installments by the borrowers, is rendered perverse. The finding is absolutely contrary to the terms of the Agreement and the pleadings made by the parties.

13. The entire order of the Tribunal is based on this finding, therefore, once the finding is found perverse, the writ petitions deserve to be and are hereby allowed. The impugned orders are quashed.

Sd/-

(Prashant Kumar Mishra)

Judge

Shyna