

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No. 21291 of 2021

Malaya Kumar Dutta

....

Petitioner

Mr. J.K.Mohapatra, Advocate

-versus-

**The Urban Cooperative Bank
Ltd. and others**

....

Opposite Parties

Mr. Debasis Tripathy, Advocate

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M.S.SAHOO

ORDER (Oral)

16.11.2022

Hybrid Mode

Order No.

- 06.** **1.** The petitioner in the writ petition had availed cash credit facility in the year 1993 of Rs.1.5 lakhs from the Opposite Party- Urban Cooperative Ltd., Baripada and after closer of the said CC facility of Rs.1.5 lakhs in the year 1995 availed another cash credit facility of Rs.2.5 lakhs in January, 1996 mortgaging his own property by mortgage deed 09.01/1996 registered before the District Sub-Registrar, Mayurbhanj.
- 2.** The lending bank being governed under the Odisha Cooperative Societies Act, 1962 initiated proceeding under section 68 of the Cooperative Societies Act, 1962 to recover the dues before the Dy. Registrar, Cooperative Societies, Baripada in Dispute Case No.

97/2008-09 (Chief Manager, Baripada Urban Cooperative Bank Ltd. v. Malay Kumar Dutta). The proceeding culminated by passing of order dated 12.08.2009 as quoted herein :

“According to the condition No.9 of the Hypothecation of deeds to secure a demand cash credit interest has been calculated. Hence it is decreed that the defendant is liable to pay Rs. 17,98,951/- as on 31.07.2009 alongwith the further interest that will accrued according to the interest rate fixed by the plaintiff bank till the date of final realization. Further he is to pay legal cost of Rs. 300/- in addition to the above.

Pronounced in the open court on this the 12th August, 2009.”

4. The notice of the decree passed by the Dy. Registrar was sent by registered post with A/D dated 27.10.2009 to the borrower. After receipt of decree notice dated 27.10.2009, petitioner-borrower submitted cheques which were dishonoured after being presented for payment, for which, ICC No. 185 of 2013 was initiated in the court of learned S.D.J.M., Baripada.

5. Challenging the order passed by the DRCS, Baripada dated 12.08.2009, appeal was filed before the State Cooperative Tribunal under section 109 of Odisha Cooperative Societies Act registered as T.A. No. 23 of 2013. It has been stated by the petitioner that the

T.A. No. 23/2013 stands dismissed for default by order dated 25.01.2017 of the learned Tribunal.

In such view of the matter, the order passed by the learned DRCS, Baripada has attained finality.

7. In the aforesaid facts and circumstances, we are of the considered view that the present writ petition seeking a prayer touching the issue already decided by the statutory authority/Tribunal is not maintainable, the petitioner having availed the statutory remedy of appeal as indicated above and the order of the statutory authority having attained finality.

8. The writ petition is dismissed accordingly.

(Jaswant Singh)
Judge

(M.S.Sahoo)
Judge

November 16th, 2022
Cuttack

dutta