



\$~68

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 25th March, 2026

Uploaded on: 27th March, 2026

+

W.P.(C) 12/2026

CA COOPERATIVE T/C SOCIETY LIMITED

.....Petitioner

Through: Mr. Jivesh Kumar Tiwari, Ms. Nandini Aggarwal, Ms. Samiksha Advs. (M: 9990166622)

versus

VIVEK KUMAR SINGH & ANR.

.....Respondents

Through: Mr. Apoorv Rastogi, Adv. for R-1. (M: 8800838221)
Mr. Anis Ahmad Adv. for R-2. (M: 9810965275)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 18710/2026 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

W.P.(C) 12/2026 & CM APPL. 18709/2026 (for direction)

3. The present writ petition has been filed by the Petitioner - CA Cooperative T/C Society Limited (*hereinafter, the 'Society'*), challenging the impugned order of the Financial Commissioner, Delhi, dated 3rd November, 2025 (*hereinafter, 'the impugned order'*) in **Case No. 84/2024 & 85/2024**, both titled '**Vivek Kumar Singh v. CA Cooperative T/C Society Limited & Anr.**'

4. By the said impugned order, the Financial Commissioner has remanded



the concerned case to the Registrar Co-operative Societies (*hereinafter 'RCS'*) to consider the various pleas raised by the Respondent No. 1, who had stood as a surety in respect of the loan which was extended by the Society for a sum of Rs.6,00,000/- to one Arpit Singh (*hereinafter, 'the Principal Borrower'*). The said loan facility was granted on 7th February, 2017.

5. Respondent No.1 is an employee of BSNL in Delhi. The background of the case is that the Principal Borrower had not repaid the money he had taken on loan, which led to the Society filing a claim before the RCS on 30th June, 2018. The sum claimed by the Society was Rs.6,43,062/-.

6. Thereafter, an Award dated 18th July, 2019 was passed by the Id. Arbitrator, by which it was held that the loan was liable to be recovered from the Principal Borrower, as also the sureties, jointly and severely. The relevant portion of the award is set out below:

“AWARD U/S 71 OF THE DELHI CO-OPERATIVE SOCIETIES ACT, 2003

The CA Cooperative T/C Society Ltd., filed a petition under section 70 of the Delhi Co-operative Societies Act, 2003 against the above mentioned defendants (No.1 to 4) for recovery of a total claim of Rs.7,92,082/- (as per details given in the A/c's status filed on 8.07.2019). Earlier the case was referred to the undersigned for passing an Award under Section 71 of the Delhi Cooperative Societies Act, 2003.

2. In exercise of the powers conferred on me as Registrar's Nominee, summonses were sent to all the parties to appear before me on 8th July, 2019 at 5.30 PM. This day Shri Masood Hussain authorized representative of claimant society was present. Defendant No.3 & 4 were also present. None present from defendant No.1 & 2. Notice to defendant No. 1 &



2 issued again for 18.07.2019 as one more opportunity. Both of them were again absent on 18.07.2019 and notices returned as 'left house'. Sufficient opportunity has been given to the both of them. I have no option but to decide the case accordingly, preceded ex-parte against defendant No.1 & 2.

3. I have considered the full facts of the case brought out before me, after having gone through the records available and after hearing the claimant in detail I convinced with the genuineness of the claim and therefore, pass the Award as under:

4 The defendants are directed to pay jointly and severally to CA Co-operative T&C Society Ltd.

i)	<u>Loan Balance</u>	<u>Rs.5,93,546/-</u>
ii)	<u>Intt. @ 18% +3% p.a.</u> <u>(upto 8.7.19)</u>	<u>Rs.1,49,020/-</u>
iii)	<u>Arbitration Cost</u>	<u>Rs.49,516/-</u>
	<u>Total</u>	<u>Rs.7,92,082/-</u>

(Rupees Seven Lakhs Ninety Two Thousand Eighty two only)

Further interest @ 18% + 3% p.a on the outstanding principal amount w.e.f. 09.07.2019 till realization in full & final of the principal sum is also allowed.

Given under my hand and seal on the 18.07.2019. ”

7. Respondent No.1 then filed an appeal before the DCT challenging the said award dated 18th July, 2019, but no stay has been granted by the DCT and the said appeal continues to be pending.

8. Since there was no stay granted in respect of the award dated 18th July, 2019, the Society approached the concerned Executing Authority for attachment of the Respondent No.1's salary.

9. The BSNL, vide its order dated 29th October, 2021, attached the salary of Respondent No.1 for a sum of Rs.20,000/- per month. This attachment was



challenged by Respondent No.1. before this Court in **W.P.(C) 12971/2021** titled **Vivek Kumar Singh v. Bharat Sanchar Nigam Limited & Anr.** The said writ petition was disposed of by the Id. Single Judge of this Court vide order dated 16th February, 2022 in the following terms:-

“3. The grievance of the petitioner is primarily against an order dated October 29, 2021 issued by the respondent No.1 directing recovery of an amount of ₹25,000/- per month till the realisation of the entire amount in terms of the directive of Assistant Collector, Grade-I, Cooperative Societies, Govt. of NCT of Delhi.

4. The submission of the learned counsel for the petitioner is primarily that a deduction from the salary of a government servant has to be in terms of Section 60(1)(i) of the Code of Civil Procedure and under the relevant Rule 74 of CGA (R&P) Rules, 1983. In terms of the said provisions, the recovery could not be in the manner suggested by the Assistant Collector in the order dated December 5, 2019 read with order dated August 11, 2021.

5. Learned counsel for the petitioner concedes that the award pursuant to which execution is sought by respondent No.2 has not been stayed, rather it was rejected vide order dated December 10, 2020. He also states, against the order of the Assistant Collector seeking execution of the order, the remedy for the petitioner is to approach the Commissioner of the Cooperative Societies in appeal. He states, petitioner is contemplating filing an appeal before the said Authority.

6. It cannot be disputed that the impugned order dated October 29, 2021 passed by the BSNL was on the asking of the Assistant Collector, executing the award. Till such time the orders of the Assistant Collector are



varied, the BSNL is required to follow/implement the same.

7. If the remedy for the petitioner is to file an appeal before the Commissioner, petitioner need to be relegated to the Commissioner for filing an appeal. It is ordered accordingly.

8. It goes without saying that the Commissioner shall consider all the pleas raised by the petitioner in support of the challenge to the order of the Assistant Collector. Accordingly, it is directed that petitioner shall file an appeal within four weeks as an outer limit before the Commissioner and the Commissioner shall hear the appeal within one week thereafter and pass appropriate orders in accordance with law. Till such time, the Commissioner hears the appeal filed by the petitioner and pass appropriate orders, the interim order dated November 17, 2021 to the extent that the Court has said that the respondent shall ensure the deductions from the petitioner's salary are made strictly in accordance with Section 60(1)(i) CPC, shall continue.

9. It is made clear that the Commissioner shall consider the appeal without being influenced by the order passed on November 17, 2021 and also this order."

10. A perusal of the above order would show that the Id. Single Judge was informed of the remedy of the Respondent No.1 to file an appeal before the Commissioner, whereas, in fact, what the Respondent No.1 wanted to do was to file a revision petition before the Id. Financial Commissioner against the order passed by the Executing Authority.

11. The Respondent No.1, on the basis of the liberty granted, filed an



appeal within four weeks. However, what, in fact, ought to have been filed by the Respondent No.1 was the revision petition challenging the order of the Executing Authority.

12. The Financial Commissioner converted the appeal into revision petition bearing No.84/2024 and 85/2024, on his own and, thereafter, disposed of the same *vide* impugned order dated 3rd November, 2025. The operative portion of the said order reads as under:

“28. In the light of all the above, the case is remanded to the Ld. Registrar Cooperative Societies to consider all the pleas raised by the Petitioner herein, the judgments of Hon'ble Supreme Court of India and the Hon'ble High Court as referred above and pass a speaking order while executing the recovery. Since the Petitioner in this case is one of surety, the RCS may assess efforts made by the society to recover the amount from Principal Debtor and other sureties also. The Ld. Registrar Cooperative Societies to also issue advisory on the above lines within next 60 days. Till the time such reasoned and speaking orders are passed after hearing the Petitioner and other concerned parties, as deemed fit, preferably within next three months, no coercive action be taken against the Petitioner.”

29. The revision petition bearing No.84/2024 titled Vivek Kumar Singh Vs. CA Cooperative Thrift & Credit Society & Anr. and 85/2024 titled Vivek Kumar Singh Vs. CA Cooperative Thrift & Credit Society are accordingly disposed of. No order as to costs.”

The said order, which was passed by the Id. Financial Commissioner, is challenged before the Court.

13. The Court has heard Id. Counsels for the parties and perused the record.



It is not in dispute that the appeal filed in 2020 against the original award which was passed by the Arbitrator dated 18th July, 2019 is still pending for the last six years. Even if the application for stay of the execution of the said award was rejected, the appeal ought to have been heard by the DCT.

14. Since the Financial Commissioner's order was passed in the execution proceedings, the same would be premature at this stage, as the appeal first ought to be decided by the DCT. Under these circumstances, the following directions are issued in the matter.

- (i) The appeal filed against the award dated 18th July, 2019 before the DCT shall be decided on or before 31st July, 2026;
- (ii) Depending upon the order passed by the DCT, the Society is permitted to pursue the execution proceedings in accordance with law;
- (iii) The order of the Financial Commissioner dated 3rd November, 2025 is set aside;
- (iv) All rights and contentions of the parties are left open to be urged before the DCT.

15. Ld. Counsel for the Respondent No.1 has also informed the Court that out of the initial loan amount, the amount of Rs.6.50 lakh has already been recovered by the Society, which is disputed by Ld. Counsel for the Society.

16. DCT shall take into consideration, the amount already recovered by the Society and the liability to be affixed, if any, upon the sureties, *qua* any of the dues. The DCT shall also take into consideration the bye-laws of the Society while deciding the appeal.

17. Before the DCT, the parties are permitted to urge all grounds by either filing written submissions and further documents. In respect of this very



award, this Court has already dealt with in *W.P.(C) 7127/2025 titled Manoj Singh v. Bharat Sanchar Nigam Limited & Ors.*, wherein also the Court had directed the appeal before the DCT to be decided. Accordingly, the appeal shall be decided comprehensively.

18. Mr. Anish Ahmad, Id. Counsel who is appearing for the BSNL submits that his appearance has been left out inadvertently on previous dates of hearing on 5th February, 2026 and 9th February, 2026. Accordingly, the appearance of Mr. Anish Ahmad, Id. Counsel for BSNL is taken on record.

19. Needless to add, the DCT shall not be bound by any observations made in this order.

20. The present petition, along with pending applications is disposed of in the above terms.

21. The date already fixed i.e. 16th April, 2026, stands cancelled.

**PRATHIBA M. SINGH
JUDGE**

**MADHU JAIN
JUDGE**

MARCH 25, 2026/dk/mr/ss