2026:CGHC:18690

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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1823 of 2026

Nirankar Prasad S/o Late Nankiram Aged About 63 Years R/o L.I.G.-896, Vishwanath Sadan, Deendayal Colony, Mangla Bilaspur District-Bilaspur (C.G.)

... Petitioner

versus

1 - State Of Chhattisgarh Through Secretary Department Of Revenue And Disaster Mantralaya, Mahanadi Bhawan, Naya Raipur District-Raipur (C.G.).

2 - Collector, Janjgir-Champa (C.G.).

3 - Tehsildar, Baloda, District-Janjgir-Champa (C.G.).

4 - Patwari, Tehsil-Baloda, District-Janjgir-Champa (C.G.).

5 - Chhattisgarh Rajya Gramin Bank Through Branch Manager, Baloda Branch, District-Janjgir-Champa (C.G.).

6 - Krishan Kumar S/o Late Nankiram, R/o Village Bhilai, Tehsil Baloda, District-Janjgir-Champa (C.G.)

... Respondents

For Petitioner	:	Mr. Krishna Tandon, Advocate
For State/ Respondents	:	Mr. Abhishek Gupta, P.L
For Respondent No. 5	:	Mr. N. Naha Roy, Advocate

Hon'ble Shri Justice Amitendra Kishore Prasad

Order on Board

23/04/2026

1. This petitioner has been filed by the petitioner seeking for the following reliefs:-

> *"1. That, this Hon'ble Court may kindly be pleased to direct the Respondent No. 5/Chhattisgarh Rajya Gramin Bank to release the part of the land of the petitioner which is mortgaged before the Respondent No. 5/Chhattisgarh Rajya Gramin Bank as per (Annexure P-3) may be released.*
> *2. That, this Hon'ble Court may kindly be pleased to direct the Respondent No.3/ Tehsildar, Baloda, District Janjgir- Champa (C.G) to conclude partition proceedings related to Revenue Case No. 202304063700024/A-27*
> *3 That, this Hon'ble Court may kindly be pleased to direct the Respondent No.5/ Chhattisgarh Rajya Gramin Bank to provide revenue documents to the petitioner which is in possession of the bank as per (Annexure P-11).*
> *4 Any other relief may also be granted by this Hon'ble court in facts and circumstances of the case. An affidavit in support of this petition is filed herewith."*

2. The case of the petitioner, in brief, is that the petitioner, being a co-sharer in the joint property bearing various Khasra numbers situated at Village Bhilai, Tehsil Baloda, District Janjgir-Champa (C.G.), has approached this Court challenging the illegal and arbitrary action of Respondent No. 5–Bank in

sanctioning a loan to private Respondent No. 6 by mortgaging the said joint property without the petitioner's consent; it is alleged that the petitioner's step-brother fraudulently availed the loan, and despite the petitioner bringing the same to the notice of the bank and authorities, the bank has neither supplied relevant documents nor appeared before the Tahsildar, resulting in pendency of partition proceedings before the Tahsildar; it is further alleged that the petitioner, though not a borrower, is being adversely affected due to the loan liability and is compelled to face its consequences, and since no effective alternative remedy is available under the SARFAESI Act, 2002 or otherwise, the petitioner has been constrained to file the present petition.

3. Learned counsel for the petitioner submits that after the death of the petitioner's father, the disputed land was duly mutated in the joint names of the petitioner, his step-brother and step-mother, thereby establishing the petitioner's status as a co-sharer; it is further submitted that the order dated 23.05.2022 passed by the Tahsildar in favour of the petitioner has attained finality. It is contended that the mortgage created by the step-brother and step-mother in favour of the

respondent bank was fraudulent and without the petitioner's consent, and that the bank acted negligently in sanctioning the loan without verifying the title and consent of all co-sharers. It is further submitted that the continued charge over the petitioner's share is illegal and is obstructing the pending partition proceedings. It is further submitted that the outstanding dues pertain to a loan taken by the petitioner's brother, however, the petitioner is willing to clear all such dues in accordance with the loan secured against the mortgaged property. In this regard, it is prayed that the bank authorities be directed to consider the petitioner's willingness and take appropriate steps for liquidation of the loan, and to pass suitable orders in accordance with law. It is also contended that the bank has neither complied with the directions of the Tahsildar nor furnished relevant loan details despite repeated requests. Lastly, it is submitted that the petitioner, being a 50% disabled person, is facing grave hardship due to the inaction and illegal acts of the respondents.

4. Learned State counsel as also learned counsel for the respondent No. 5 jointly opposes the submissions made on behalf of the petitioner and submit that the present petition is

misconceived and not maintainable, as the dispute primarily pertains to private rights between co-sharers and the lending bank. It is contended that the loan was sanctioned by the respondent bank after due verification of records and in accordance with law, and there is no illegality in creation of the mortgage. It is further submitted that the petitioner has an efficacious alternative remedy under the relevant statutes, including proceedings before the competent revenue authority and appropriate forum under the SARFAESI Act, 2002. The allegations of fraud, negligence and non-compliance are specifically denied. It is thus submitted that no interference is warranted in writ jurisdiction and the petition deserves to be dismissed.

5. I have heard learned counsel for the parties at length and perused the material available on record.

6. The controversy in the present case arises out of a loan transaction wherein the joint property, of which the petitioner is a co-sharer, has been mortgaged in favour of respondent No. 5–Bank by the petitioner’s step-brother and step-mother. The petitioner has questioned the validity of such mortgage primarily on the ground of absence of consent and has also

sought release of his share in the mortgaged property, along with other consequential reliefs.

7. From the pleadings and submissions advanced, it is not in dispute that the loan in question was availed by the petitioner’s brother and that the mortgage continues to subsist in favour of the respondent bank. It is also evident that the dues arising out of the said loan are still outstanding. In such circumstances, the rights and obligations flowing from the mortgage cannot be nullified unless the secured debt is duly discharged in accordance with law.

8. At this juncture, learned counsel for the petitioner has fairly submitted that the petitioner is willing to clear the entire outstanding dues of the loan account, notwithstanding the fact that the loan was availed by his brother. Such submission, in the considered opinion of this Court, adequately addresses the core issue involved in the present petition. In view of the foregoing, without entering into the disputed questions of fact regarding validity of the mortgage or alleged fraud, this Court deems it appropriate to dispose of the present writ petition with the directions that the petitioner shall pay the entire outstanding dues payable to respondent No. 5–Bank in

respect of the loan account in question. Upon such payment being made, the respondent bank shall be under an obligation to release the mortgaged property, in accordance with law, and take consequential steps for discharge of the mortgage.

9. The petitioner as well as his brother shall appear before the respondent bank within a reasonable time and extend full cooperation in the proceedings undertaken for the purpose of clearance of the outstanding dues. The respondent bank shall, upon appearance of the parties, provide necessary details of the outstanding amount and facilitate the process of settlement in accordance with law.

10. It is made clear that this Court has not expressed any opinion on the merits of the allegations made by either party and all other issues are left open to be adjudicated before the appropriate forum, if so advised.

11. With the aforesaid observations and directions, the writ petition stands disposed of.

No order as to costs.

Sd/-

(Amitendra Kishore Prasad)
Judge

Arpan