

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL No. 8347 OF 2011

NISHA SURESH

APPELLANT

VERSUS

UCO BANK SAMBALPUR BRANCH & ORS.

RESPONDENTS

**WITH
CIVIL APPEAL No. 8348 Of 2011**

UCO BANK & ANR.

APPELLANTS

VERSUS

M/S. HIRAKUD RICE MILL & ORS.

RESPONDENTS

ORDER

1. None appears on behalf of the respondents-borrowers.
2. These civil appeals, at the instance of an auction purchaser and a secured creditor, are directed against the judgment and order dated 21st June, 2010¹ passed by the High Court of Orissa at Cuttack, whereby a writ petition² of the borrowers stood disposed of with directions.
3. The property mortgaged by the borrowers was put up for sale by auction by UCO Bank, the appellant in Civil Appeal No. 8348 of 2011 after taking possession thereof in terms of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002³ read with the Security

¹ impugned order

² Writ Petition (C) No. 18742 of 2009

³ SARFAESI Act

Interest (Enforcement) Rules, 2002⁴. The appellant in Civil Appeal No. 8347 of 2011 participated in the auction and emerged as the highest bidder. Upon due payment of sale price, sale was confirmed in favour of the auction purchaser. Sale Certificate under Rule 9(6) of the Rules was then issued in favour of the auction purchaser on 4th January, 2010 and on the same date, possession of the property sold by auction was made over to her.

4. However, prior to issuance of the aforesaid sale certificate, the borrowers had invoked the writ jurisdiction of the High Court challenging the measures taken by UCO Bank under the SARFAESI Act which has succeeded *vide* the impugned order. The operative part of the impugned order reads as follows:

“Petitioner, in this Writ Petition, is the owner of Hirakud Rice Mills, which was put to auction by O.P. Bank due to default in repayment of the loan amount. The O.P. No. 4 is the auction-purchaser who has deposited Rs.1.52 crores with the O.P. Bank in the meantime. Mr. Rath, learned Senior Advocate, appearing for the petitioner submits that the total amount outstanding against the petitioner as on 05.01.2010 is Rs.1,43,45,295/- and he is now ready and willing to pay back the entire amount outstanding but needs some breathing time.

In view of the above submission and after hearing Dr. A.P. Rath, learned counsel for the O.P. Bank as well as the auction-purchaser, we think it would be proper to allow the petitioner to get back his property, which is the source of his livelihood. Therefore, we direct the O.P. Bank to quantify the amount which is to be paid by the petitioner in four equated instalments within a period of six months as undertaken by Mr. Rath, learned senior advocate for the petitioner. The first of such instalments shall be paid by 15th July, 2010. It is directed that only after payment of the first instalment, as directed hereinabove, the O.P. Bank shall refund the amount of Rs.1.52 crores deposited by the O.P. No. 4 along with accrued interest thereon and deliver possession of the property to the petitioner. However, till the final payment is made the property shall be under symbolic possession of the O.P. Bank but the petitioner would be free to run its business.

The writ petition is disposed of accordingly.”

5. Having regard to the provisions of section 13(8) of the SARFAESI Act read with the Rules which were in force at the relevant time, the right of redemption could have been exercised by the borrowers by tendering to the secured creditor its dues together with all costs, charges and expenses at any time before the date fixed for sale or transfer. No evidence of such tender is available on the records. Even on the date the writ petition was heard and disposed of by the impugned order, the borrowers were not ready with the full amount and had sought breathing time. It was, thus, not open to the High Court to extend undue indulgence to the borrowers, contrary to the statute.
6. The impugned order of the High Court is indefensible and, accordingly, stands set aside.
7. The appeals are, accordingly, allowed on the above terms.
8. Pending interlocutory application(s), if any, shall stand closed.

.....J.
[DIPANKAR DATTA]

.....J.
[JOYMALYA BAGCHI]

**New Delhi;
September 11, 2025.**

ITEM NO.130

COURT NO.7

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 8347/2011

NISHA SURESH

Appellant(s)

VERSUS

UCO BANK SAMBALPUR BRANCH & ORS.

Respondent(s)

WITH

C.A. No. 8348/2011 (XI-A)

Date : 11-09-2025 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPANKAR DATTA
HON'BLE MR. JUSTICE JOYMALYA BAGCHI

For Appellant(s) : Mr. Rajesh Singh, AOR

Mr. Devashish Bharuka, Sr. Adv.
Ms. M. Sarada, AOR
Mr. Rajeev Gulani, Adv.

For Respondent(s) : Mr. Rajesh Singh, AOR (Not present)

Dr. Sushil Balwada, AOR (Not present)

UPON hearing the counsel the Court made the following
O R D E R

The appeals are allowed in terms of the signed order placed on the file.

(JATINDER KAUR)
P.S. to REGISTRAR

(CHETNA BALOONI)
COURT MASTER (NSH)

ITEM NO.130

COURT NO.7

*Revised for appearance
SECTION XI-AS U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 8347/2011

NISHA SURESH

Appellant(s)

VERSUS

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C.A. No. 8348/2011 (XI-A)

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CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA
HON'BLE MR. JUSTICE JOYMALYA BAGCHIFor Appellant(s) : *Ms.Ruchi Kohli, Sr. Adv.
Mr. Rajesh Singh, AOR
Mr. Hitesh Kumar Sharma, Adv.
Ms. Srishti Mishra, Adv.
Mr. Akhileshwar Jaha, Adv.
Mr. Varun Varma, Adv.
Ms. Charanjeet Sidhu, Adv.Mr. Devashish Bharuka, Sr. Adv.
Ms. M. Sarada, AOR
Mr. Rajeev Gulani, Adv.

For Respondent(s) :Dr. Sushil Balwada, AOR (Not present)

UPON hearing the counsel the Court made the following
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(JATINDER KAUR)
P.S. to REGISTRAR(CHETNA BALOONI)
COURT MASTER (NSH)