



**HIGH COURT OF JUDICATURE AT ALLAHABAD**  
**FIRST APPEAL No. - 467 of 2026**

Vijendra Singh Alias Bijendra Singh

.....Appellant(s)

Versus

Noida Commercial Cooperative Bank Ltd. And  
Another

.....Respondent(s)

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Counsel for Appellant(s) : Syed Fahim Ahmed  
Counsel for Respondent(s) : Akshat Sinha, Gyanendra Kumar  
Singh, Sanyukta Singh

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**Court No. - 34**  
(Sl.No.1)

**HON'BLE ANISH KUMAR GUPTA, J.**

1. Heard H.N.Singh, learned Senior Advocate assisted by Sri Syed Fahim Ahmed, learned counsel for the appellant, Sri Tarun Agarwal, learned Senior Advocate assisted by Sri Akshat Sinha, learned counsel for the respondent no.2 and Sri Chandrabhan Gupta, Advocate appearing for respondent no.1, who has filed vakalatnama today in Court.

2. The instant appeal has been filed by the appellant herein being aggrieved by an order dated 24.03. 2026 passed in Civil Suit No. 83 of 2025 whereby the application under Order VII Rule 11 CPC filed by the defendant was allowed and the suit has been rejected being barred under Section 111(d) of UP Co-operative Societies Act 1965.

3. The briefly stated facts of the case are that the respondent no.1, the Noida Commercial Co-operative Bank, Ghaziabad is a Co-operative Society established under the provisions of UP Co-operative Societies Act, 1965. The predecessor-in-interest of the appellant namely Shri Chandrapal Singh stood guarantor to the loan advanced by the respondent no.1 M/s Sangwan Heights Private Limited and has mortgaged the property area 2630 square meter situated at Khasra No. 415, Village Bhowapur, Block Jalalabad, Tehsil and District-Ghaziabad on 19.11.2015 by creating an equitable mortgage in favour of the respondent no.1 by deposit of the original title deeds on 30.09.2009 and 23.09.2009. On 18.9.2014, a sale deed was executed in favor of the appellant herein by the said Chandrapal Singh vide registered sale deed dated 18.09.2014,

which was registered before the Sub-Registrar-IIInd, Ghaziabad.

4. The appellant has alleged that since then he was the owner in possession of the said property. The said M/s Sangwan Heights Private Limited defaulted in repayment of the loans advanced to it by respondent no.1. Pursuant thereto an arbitration proceedings were initiated in terms of the provisions of UP Co-operative Societies Act 1965. On 8.11.2019 an award was passed in favor of the respondent no.1. Later the said award was modified on 11.03.2020 by the Arbitrator and was directed that the respondents no.1 to 5 in the said arbitration proceedings which included M/s Sangwan Heights Private Limited as well as five Directors of the said private company to deposit Rs. 1,35,16,345/- in three equal monthly installments with respondent no.1 herein and in case the respondents in the arbitration proceedings failed to deposit the said amount, the bank was permitted to sell the mortgaged property and to recover the aforesaid amount accordingly.

5. Pursuant thereto, since the respondents in the arbitration proceedings failed to deposit the aforesaid amount as directed in the award, the respondent bank has sold the said property to respondent no.2 after conducting public auction on 05.04.2021 and thereafter the sale certificate was also issued and consequently on 21.01.2022 the sale deed was also executed in favour of the respondent no.2. Thereafter the appellant herein has filed a Civil Suit No. 575 of 2022 for permanent injunction and cancellation of the sale deed executed in favour of the respondent no.2. The said suit is stated to be pending as on date and no interim order has ever been passed in favor of the appellant herein. Thereafter the appellant herein filed the present Suit No. 83 of 2025 claiming the right of redemption of the mortgage. In Suit No. 83 of 2025, the respondents filed the written statement and also filed an application under Order VII Rule 11 CPC stating therein that the suit for redemption filed by the appellant herein is hit by provisions of Section 111(d) of UP Co-operative Societies Act. Therefore, the plaint of the appellant herein be rejected. Vide impugned order dated 24.03.2006, the learned trial court has allowed the application under Order VII Rule 11 CPC filed by the respondent no.2 and consequently the plaint was rejected. Being aggrieved, the instant appeal has been filed by the appellant herein.

6. Shri H N Singh, learned senior senior counsel for the appellant submits that in its application under Order VII Rule 11 CPC, the respondent no.2 has taken the following four grounds namely:

(i) That the suit is barred under Order II Rule 2 and Section 10 CPC.

(ii) That the suit is barred by provisions of Rule 28 of the General Rules (Civil), 1957.

(iii) That the suit is barred under Section 55 of the Transfer of Property Act 1882.

(iv) That the suit is barred under Section 70 and Section 111 of the UP Cooperative Societies Act 1965.

7. The trial court has dealt with all the four objections and out of the aforesaid four grounds, the findings recorded by the trial court in three grounds was in favour of the appellant herein. So far as ground four i.e. the suit is barred under Section 70 and Section 111(d) of UP Co-operative Societies Act 1965, the trial court has held that the suit is barred under Section 111(d) of UP Co-operative Societies Act 1965 and consequently the plaint has been rejected.

8. Learned Senior Counsel for the appellant further submits that the trial court has further observed in the impugned order that since no final relief can be granted to the petitioner, as right to redemption do not survive after realization of the loan amount by sale of the mortgaged property. In such view of the matter the trial court proceeded to reject the plaint which is unsustainable in law. Learned senior counsel for the appellant further submits that while dealing with the application under Order VII Rule 11 CPC, the trial court has further taken into consideration the averments made in the pleadings of the parties beyond the averments made in the plaint and the learned Senior Counsel has vehemently argued that while deciding the application under Order VII Rule 11 CPC, it is not permitted to the trial court to take into consideration any material except averments made in the plaint.

9. In support of his submission, learned senior counsel has relied upon the

judgment of Apex Court in *Shri Hari Hanuman Das Totala and others vs. Hemant Vithal Kamat and others*, (2021) 9 SCC 99 as well as *Hardesh Ores (P) LTD. vs. Hede and Company*, (2007) 5 SCC 614. Therefore, learned senior counsel for the appellant submits that the impugned order is not sustainable in law. Therefore, he seeks quashing of the impugned order.

10. Per contra, Shri Tarun Agrawal, learned Senior Counsel appearing on behalf of respondent no. 2 has vehemently submitted that the auction sale has been conducted pursuant to the award made under the provisions of Co-operative Societies Act, 1965 and Section 111 of the UP Co-operative Societies Act bars the jurisdiction of civil court in respect of any other order or award made under this Act.

11. The instant suit has been filed for redemption of the mortgaged property by the appellant herein claiming himself to be the successor-in-interest of the original mortgagor. The mortgagee has already proceeded against the original mortgagor and proceedings of arbitration under the UP Co-operative Societies Act were finalized and the award was passed against the original mortgagor. The original mortgagor was also granted sufficient time to repay the amount due to the respondent no.1 and within the specified period, he failed to deposit the said amount.

12. In such circumstances, in terms of the award, the respondent no.1 has conducted the auction sale in which the respondent no.2 has also participated and consequently the sale deed has also been executed after due payment to the respondent no.1. Thus, after the execution of the sale and auction proceedings and the execution of the sale deed, right to redemption no more survives to the original mortgagor through whom the appellant is claiming right of redemption. Consequently, the relief claimed in the suit cannot be granted to the appellant without interfering with the award passed under the provisions of UP Co-operative Societies Act, the course which is clearly bar under the under Section 111 of the said Act. In such circumstances, the trial court has rightly rejected the claim noting the clear bar under Section 111 of the UP Co-operative Societies Act. Therefore, there is no illegality in the impugned order and relying upon the Order 41 Rule 11 CPC, he pleaded that the instant appeal

should be decided at the admission stage itself.

13. Learned counsel for respondent no. 1, Sri Chandrabhan Gupta has also adopted the submissions so made by learned Senior Counsel for the respondent no.2.

14. Having heard the rival submissions so made by learned counsel for the parties, this Court has carefully gone through the record of the case and specifically the impugned order. In the civil suit filed by the appellant, the following reliefs were prayed by him:

"A वादी के पक्ष में मोचन की डिक्री पारित करते हुए प्रतिवादी संख्या 1 को आदेशित किया जाए कि-

> मोचन के अधिकारों के अनुरूप वादी द्वारा दी जाने वाली बकाया ऋण की सही धनराशि का निर्धारण करे तथा उपरोक्त धनराशि को बादी से प्राप्त कर विवादित भूमि के मूल अभिलेख जो पूर्व स्वामी चंद्रपाल से प्राप्त किए थे, वादी को वापस करे,

> वादी को विवादित भूमि का विधिवत कब्जा दिए जाए> बैनामा दिनांकित 10.01.2022 को अवैध और शून्य मानते हुए वादी के पक्ष में प्रतिवादी संख्या 1 के बैंक चार्ज समाप्त होने का प्रमाण पत्र जारी करेB. यदि प्रतिवादी संख्या 1 द्वारा ऐसा करना संभव न हो तो प्रतिवादी संख्या 2 को निर्देशित किया जाए कि वह वादी के खर्च पर विवादित भूमि का विक्रय विलेख वादी के पक्ष में निष्पादित करे और विवादित भूमि का कब्जा भी विधिवत वादी को प्रदान करे।

C यदि प्रतिवादी संख्या 2 ऐसा करने में विफल रहे तो न्यायालय स्वयं विवादित भूमि का विक्रय विलेख वादी के खर्च पर स्वयं न्यायालय अमीन महोदय के द्वारा बादी के पक्ष में निष्पादित कर पंजीकृत कराए और वादी को विवादित भूमि का विधिवत् कब्जा भी प्रदान कराए"

15. From perusal of the aforesaid reliefs, it is apparent that the appellant herein claims redemption of the mortgaged property and seeks declaration of the sale deed executed on 10.01.2022 in favour of the respondent no.2 to be illegal and void, which was executed pursuant to the award passed under the provisions of UP Co-operative Societies Act. Therefore, unless the award passed by the arbitrator, under the provisions of UP Co-operative Societies Act is set aside or interfered with, the relief claimed by the appellant herein cannot be granted and any interference with the award passed under the provisions of UP Co-operative Societies Act is not permitted by the civil court, which is expressly barred under Section 111(d) of UP Co-operative Societies Act.

16. In this view of the matter, this Court do not find any illegality in the impugned order dated 24.03.2026 passed by the trial court allowing the application under Order VII Rule 11 CPC and rejecting the plaint being barred under Section 111(d) of UP Co-operative Societies Act 1965. From perusal of the aforesaid provision, it is apparent that the civil court or revenue court has no jurisdiction in respect of any award or order made under the UP Co-operative Societies Act:

*"111. Bar of Jurisdiction of Court-Save as expressly provided in this Act, no civil or revenue court shall have any jurisdiction in respect of:—*

*(a) the registration of a co-operative society or its bye-laws or of an amendment of a bye-laws ;*

*(b) the supersession or suspension of a committee of management ;*

*(c) any dispute required under section 70 to be referred to the Registrar ;*

*and*

*(d) any other order or award made under this Act."*

17. Since in the considered opinion of this Court, the reliefs claimed are apparently hit by the provisions of Section 111(d) of UP Co-operative Societies Act, in such view of the matter, this Court do not enter into deal with the judgment cited by learned counsel for the appellant as there is no quarrel that for deciding the application under Order VII Rule 11 CPC, only the averments made in the plaint are to be taken into consideration. From the perusal of the impugned order, it is apparent that while deciding the application, specifically the fourth ground, the Court has taken into consideration only the averments made in the plaint.

18. Consequently, the instant appeal filed by the appellant herein is **dismissed** at the admission stage itself under Order 41 Rule 11 CPC.

**(Anish Kumar Gupta,J.)**

**May 6, 2026**  
Ashish Pd.