

Date of filing: 04.10.2024  
Date of Disposal: 08.10.2025

**BEFORE THE KARNATAKA STATE CONSUMER DISPUTES**  
**REDRESSAL COMMISSION, BENGALURU**  
**(PRINCIPAL BENCH)**

**DATED: 08<sup>th</sup> DAY OF OCTOBER 2025**

**CORAM: HON'BLE Mr. JUSTICE T.G. SHIVASHANKARE GOWDA – PRESIDENT**

and

**Mrs. DIVYASHREE M – LADY MEMBER**

**SC/29/A/2667/2024**

**BETWEEN:**

1. THE DEPUTY REGIONAL MANAGER,  
BANK OF BARODA,  
REGIONAL OFFICE,  
BENGALURU – CENTRAL,  
VIJAYA TOWERS,  
NO.41/2, M.G.ROAD,  
BENGALURU – 560001.
2. THE BRANCH MANAGER,  
BANK OF BARODA,  
VICTORIA ROAD,  
NO.25, VICTORIA LAYOUT,  
BENGALURU – 560047. .... APPELLANT/S

**(BY SRI.T.P.MUTHANNA, ADVOCATE)**

**AND:**

1. MR.HUSSAIN SHARIEF,  
S/O LATE ABDUL WAHAB,  
AGED ABOUT 60 YEARS,  
R/AT NO.13, MASJID SSTREET,  
NEELASANDRA, BENGALURU – 560047.
2. SMT. TASNEEM HUSSAIN,  
W/O HUSSAIN SHARIEF,

AGED ABOUT 52 YEARS,  
R/AT NO.13, MASJID STREET,  
NEELASANDRA,  
BENGALURU - 560047.

..... **RESPONDENTS/S**

**(BY SRI.V.P.R., ADVOCATE)**

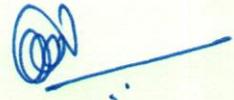
**ORAL ORDER**

**(PER: HON'BLE Mr. JUSTICE T.G. SHIVASHANKARE GOWDA, PRESIDENT)**

This Appeal is filed U/s 41 of the Consumer Protection Act, 2019 (in short CP Act) by appellants challenging the order dated 14.08.2024 passed in CC/301/2023 on the file of IV Additional District Consumer Disputes Redressal Commission, Bengaluru (in short the District Commission).

**2.** The Appellants were Opposite Party Nos.1 & 2 (in short OP1 & OP2) and respondent Nos.1 & 2 were the complainant Nos.1 & 2 before the District Commission. The Rank of the parties shall be referred to as per their status before the District Commission.

**3.** The Brief facts of the case are that; the complainants have borrowed the housing loan of Rs.8,00,000/- from the OPs by mortgaging their property by depositing title deeds and they have also



created equitable mortgage. The complainants have also availed the 02 personal loans. As they did not repay the EMIs regularly the loans became NPA. The complainants have approached the OPs for settlement of the money due under Runa Mukthi Yojana. After negotiation, OTS Scheme was extended to the complainant. As full and final settlement they have discharged the loan and they have received the closure letter on 10.02.2023 in respect of personal loan and on 02.05.2023 in respect of the housing loan. After closure of the loans the complainants have asked return of title deeds, but it was not returned even for a period of 06 months. After issuing the notice, pleading deficiency of service, they have approached the District Commission by filing complaint.

**4.** Before the District Commission the OPs have filed their version denying the allegations made in the complaint except admitting the loans borrowed and closure of loans under the OTS Scheme.

**5.** Before the District Commission the complainant No.1 has filed his affidavit evidence as PW-



1 and marked 06 documents as Annexure Nos.1 to 6. On behalf of OPs, Manager and authorized officer of OPs has filed affidavit evidence as RW-1 and marked 06 documents as Ex.R1 to R6. The District Commission after hearing both the parties allowed the complaint in part and directed OP Nos.1 and 2 to return all original documents and other property documents to the complainants within 45 days from the date of the order and shall pay penalty of Rs.3,000/- per day from closure of the loan i.e., 31.03.2023 till the order is complied. Further directed to pay compensation of Rs.50,000/- towards deficiency in service, pain and suffering to the complainants along with Rs.10,000/- towards cost of litigation. Aggrieved by the same, the OPs have preferred this appeal.

**6.** We have heard the arguments of the learned counsels for both sides.

**7.** It is the contention of the learned counsel for OPs that since the loans become NPA proceedings were initiated under the SARFAEIS Act, an original application was also filed before Debt Recovery Tribunal to effect



the recovery by attaching the property. During the said period, OTS Scheme was extended to the complainants. Under the OTS Scheme complainants have settled the money. OPs have filed an application before Debt Recovery Tribunal for return of the title deeds so as to return the same to the complainants. Since there is a delay in deciding the said application before Debt Recovery Tribunal there is no negligence on the part of OPs. Soon after the receipt of the records, the complainants were asked to come and collect the same. But complainants did not come to the bank and they have straight away come before the District Commission alleging deficiency of service. It is the fault on the part of the complainants in not coming to the bank to collect the said documents by signing in the register. The order of the District Commission found fault with the OPs and they sought for dismissal of the complaint.

**8.** Learned counsel for the complainants have contended that soon after closure of the loans the complainants are entitle to receive their documents which are mortgaged with the bank. Inspite of issuing



the notice, OPs did not invite the complainants or deliver the documents. Thereby they have committed deficiency of service. The complaint was filed on 06.11.2023; the OPs after appearing before the District Commission have not offered any explanation as to why the documents are not returned to the complainants. Even during the proceedings, inspite of directions by the District Commission, OPs have not returned the documents. Hence District Commission is right in holding that the act of the OPs as deficiency of service and the District Commission by following the guidelines of RBI rightly imposed the penalty. Even today the title deeds of the complainants are not returned or tendered before the State Commission and he argued in support of the order of the District Commission.

**9.** We gave our anxious consideration to the arguments addressed by both sides. Perused the material placed on record.

**10.** Now the point that arise for our consideration is:

**(i) Whether the order of the District Commission in holding that the OPs**

**have committed deficiency of service  
is perverse or illegal?**

**(ii) Whether the order of the District  
Commission in awarding penalty of  
Rs.3,000/- per day from 31.03.2023  
and also awarding compensation of  
Rs.15,000/- is proper?**

**POINT (i):**

**11.** There is no dispute that both the complainants have borrowed housing loan by depositing title deeds by creating a equitable mortgage. Both the complainants have also borrowed the individual loans. Due to non-payment of EMIs the accounts become NPA. Hence the OPs have initiated the proceedings under the SARFAESI Act to recover the loan and they have also filed original application before Debt Recovery Tribunal under the provisions of SARFAESI Act. During the pendency of the said proceedings the complainants have approached OPs and under Runa Mukthi Yojana OTS Scheme were extended, matter was settled and money was discharged as full and final settlement. To that effect OPs have issued loan discharge letter to the complainants.



**12.** When the loan was discharged, the complainants are entitled to receive back their title deeds which were put under the equitable mortgage. As rightly contended by the learned counsel for the OPs since the bank has initiated proceedings before the Debt Recovery Tribunal, the title deeds were submitted to the said authority. During the pendency of the proceedings before Debt Recovery Tribunal settlement took place and they have to get back the records from the Debt Recovery Tribunal. During the course of the arguments it is brought to our notice that from Debt Recovery Tribunal the OPs have received the original title deeds only on 05.10.2023.

**13.** Now the question arises as to whether the OPs are required to return the documents and if they are required to return what would be the reasonable time? The conduct of the OPs has to be considered in this point as it would throw the light to decide the fact in issue.

**14.** After receipt of the title deeds on 05.10.2023, OPs have to return the said documents to the complainants. Before the District Commission, the

complaint was filed on 06.11.2023 i.e., one month thereafter. Before the District Commission there is no offer on the part of the OPs to return the documents. Even now it is the submission of the learned counsel for OPs to direct the complainants to visit the concerned branch to sign the registers and take back the records. At para-13 of the impugned order, we can peruse the observations made by the District Commission, that there was a direction to the OPs to handover the original documents. But there was no reply from the side of the OPs. When the material on record clearly speaks out that inspite of the order of the District Commission even after filing of the complaint the OPs have not returned the title deeds.

**15.** We are failed to understand why OPs have not returned the title deeds of the complainants. Hence we are not persuaded with the arguments of Sri.T.P.Muttanna, learned counsel for the OPs that unless the complainants shall appear before the concerned branch and sign to a register it cannot be returned. The complainants have a complaint against



the OPs. It is too much on their part in expecting the complainants to come before the branch. Even when the District Commission has directed the OPs to return the title deeds. The OPs with due diligence would have deposited the title deeds before the District Commission. Instead they have insisted the complainant to come before the Branch only. Thus, it is a clear case of deficiency of service and accordingly we answer point No.(i).

**POINT (ii):**

**16.** We have carefully perused the order of the District Commission. The District Commission has imposed penalty of Rs.3,000/- per day w.e.f., 31.03.2023. As rightly argued by the learned counsel for the OPs that title deeds were in the custody of the Debt Recovery Tribunal. These documents were not in their hands. They have to get back these records and undisputedly on 05.10.2023 the OPs received the documents from Debt Recovery Tribunal and therefore, the order of the District Commission imposing penalty w.e.f., 31.03.2023 is improper.



**17.** The District Commission has relied on the guidelines of the RBI dated 13.09.2023 in RBI/2023-24/60 DoR.MCS.REC.38/01.01.001/2023-24 wherein the said circular shall be applicable only from 01.12.2023. Therefore, the District Commission cannot rely upon a prospective circular to a retrospective date. Whatever the penalty that has to be imposed must be from the date of effect of circular i.e., 01.12.2023 onwards. The RBI Circular did not point out award of interest on the penalty. When the District Commission is relying upon the said circular, unless the said circular contemplates payment of interest on penalty, imposition of the same cannot be sustained. Hence the order of the District Commission in awarding interest has to be modified.

**18.** We are failed to understand the attitude of the OPs why they are insisting the presence of complainants to appear before their branch. When the loans are cleared, it is not the rule mandate the presence of the complainants to appear before the concerned branch when the litigation was started from 06.11.2023. Even basing on the circular of the RBI dated 13.09.2023, the



officer of the OPs should have been more sensitive. We do not found any material placed by the OPs to attribute negligence or omission on the part of the complainants in not appearing and collecting the records. If the complainants have not appeared, the documents ought to have been deposited before the District Commission or even after filing of this appeal they could have deposited the same before the State Commission. We do not found any valid or acceptable reasons from the OPs. Hence we do not find any fault apparent on the face of the order of the District Commission in awarding penalty of Rs.3,000/- per day and it does not calls any interference of this Commission.

**19.** When the District Commission has granted a remedy to the complainants, there is no need for awarding compensation separately. Hence award of separate compensation by the District Commission has to be removed. Only to the extent of effecting the penalty from 01.12.2023 and award of compensation, the order of the District Commission requires modification. In the result, the following;

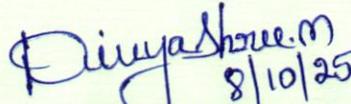


**ORDERS**

- (i) The Appeal is allowed in part.
- (ii) The Order of the District Commission stands modified to the extent that the order of penalty shall come into effect from 01.12.2023 instead of 31.03.2023.
- (iii) The award of compensation of Rs.50,000/- is set aside.
- (iv) The award of litigation expenses stands confirmed.
- (v) The OPs are directed to return all the original documents and also pay the penalty amount within 04 weeks from the date of receipt of this order, failing which the penalty amount shall carry interest @ 09% p.a. from the effective date.
- (vi) The Amount in deposit shall be transmitted to the District Commission to disburse the same to complainant.
- (vii) Provide free copy of this Order to the District Commission and parties.



**(T.G.SHIVASHANKARE GOWDA)  
PRESIDENT**



**(DIVYASHREE M)  
LADY MEMBER**

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