NATIONAL JUDICIAL ACADEMY

NATIONAL SEMINAR FOR PRESIDING OFFICERS OF DEBT RECOVERY TRIBUNAL (DRT)

[SE-19]

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Programme Report

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NATIONAL SEMINAR FOR PRESIDING OFFICERS OF DEBT RECOVERY TRIBUNAL (DRT), 17th & 18th March 2025

Session – 1 Recovery of Debts and Bankruptcy Act, 1993 (RDB): Genesis & Overview

Speakers: Justice M.R. Shah and Dr. Justice Vineet Kothari

The first session of the national seminar provided a foundational understanding for the Presiding Officers of the Debt Recovery Tribunals (DRTs). The participants were informed that despite the separation of powers among the various organs of the government, their fundamental purpose remains unified, and that it is all the more significant for a judicious mind to identify and resolve the systemic bottlenecks. It was accentuated that the genesis of DRTs and the RDB Act, 1993, was rooted in the aim for speedy disposal of debt recovery cases. It was asserted that in an era of liberalisation and booming banking business, a quick and robust judiciary is an integral component for the ease of doing business in the country. It was highlighted that the RDB was specifically designed so that its adjudicators would not be bound by strictures of the Civil Procedure Code but rather aiming for a more expedited process. Bank transactions were highlighted as inherently simple due to robust documentation, making the subsequent delays particularly perplexing.

Conversely, despite this clear intent, DRTS have not been as successful as originally conceived for speedy disposals, leading to an inordinate pendency and significant delay in case resolution, which directly contradicts the original purpose of the Act. It was further observed that another cause of delay ascends from the procedural thickets arising out of the intersection between procedural laws like CPC and Evidence Act that run simultaneously with the RDB, causing procedural hiccups in achieving the purpose of the DRTs. It was also highlighted that under the RDB Act, the presiding officers merely adjudicate a due debt, while the execution of decrees is handled separately by the recovery officers.

The discussion further highlighted several operational challenges that are faced by the presiding officers themselves, including the difficulty and inability to decide cases within the mandated six-month timeframe. These delays are attributed to issues such as the slow process of adducing evidence, timely submission of written statements, challenges in prioritising urgent matters and crucially the lack of human resources as well. Furthermore, it was brought to attention that 'affinity to procrastinate' by the banks is another significant factor contributing to the mounting pendency. It was highlighted that while most of the recovery cases are open and shut, exceptions exist, such as the attachment of the assets of the guarantor despite, the principal debtor having sufficient funds, which, though not illegal, is not considered sound legality or justice dispensation. It was cautioned that even lenders, including banks can sometimes present false cases, emphasising the importance of providing a fair opportunity to all parties in the event of an adverse order.

The discussion further emphases that the debt recovery regime has significantly evolved, moving from civil suits to the current landscape, including the Insolvency and Bankruptcy Code, (IBC) 2016, which grants banks and financial institutions the power to take over and sell assets without direct court intervention. This reflects a broader trend in specific laws to exclude or minimise courts interference. To address the existing inefficiencies, it was stressed that technological integration through process re-engineering is indispensable for decreasing pendency and increasing disposals, though it must not replace human intelligence or humanity. A key recommendation was to develop a data framework for DRTs, similar to the National Judicial Data Grid, which would include information like case status, filing dates, evidence and written statements, enabling officers to manage backlogs by prioritising older cases. It was suggested that the legislature should address the staffing and procedural issues to facilitate the adjudication process and optimise loan recovery. The importance of Presiding Officers effectively utilising the powers granted under Section 19 and 19A was also reiterated. The session also dwelt upon the prospects of Alternative Dispute Resolution (ADR) mechanisms in DRTs, which participants generally affirmed as potential future recourse to curb the inefficiencies.

Session – 2 : Case Management: Improving Efficiency & Efficacy of DRT

Speakers: Justice U.C. Dhyani and Dr. Justice Vineet Kothari

Chair: Justice M.R. Shah

The session commenced by emphasising that effective case and court management is critical to ensure the 'Right to Speedy Trial' and to improve the overall efficiency of

the justice system. While discussing the foundational principles of management Peter Drucker's principles were highlighted i.e., planning, organising, directing, coordinating and controlling, which are essential for effective judicial administration as well. It was further accentuated that the fundamental goal of case management is to enable judges better at what they do, which is to achieve the same end with lesser resources and in lesser time. This aligns with Lord Justice Woolf's observation on the need to efficiency. The primary benefit identified are - improving efficiency, reducing delays, cutting cots etc.

The discourse further highlighted that case management may be described as having twofold ambit viz., procedural and substantive. Both these aspects necessitate infrastructure and sensitivity. Thereafter, the session emphasised the various stages of adjudication where case management tools can be employed and how case management can be integrated into the adjudicatory procedure. Participants were advised to prioritise non-value added items in their caseload first rather than delay it. Key tools and principles suggested for effective case management include, time management, decentralisation, procedural simplification and application of business management principles wherever possible. Beyond individual case management, the session also highlighted the broader principles of effective case management. These include- scrutiny, teamwork, role clarity, effective delegation, established institutional systems and processes, mentoring, experiential learning, planning, strategy and execution and above all work life balance. While suggesting a focus on best practices from various jurisdictions, the session reviewed the case management initiatives in the United Kingdom and compared the same with the initiatives taken in India.

A significant portion of the session was dedicated to identifying and analysing the root causes of delays, categorising them into issues primarily related to advocates/judicial control and broader systemic bottlenecks.

Session – 3 Judicial Discretion; and the Art, Craft & Science of Drafting Judgments/Orders

Speakers: Justice U.C. Dhyani and Dr. Justice Vineet Kothari

Chair: Justice M.R. Shah

The session started by highlighting that drafting of judgments and orders is a critical, often time-consuming task that showcases the abilities of a judge, requiring them to deliver erudite and practical decisions. A judgement serves multiple purposes: it informs the parties involved, appellate courts, legal professionals, other judges, law students and the broader civil society. Crucially, it provides the rationale behind the conclusion reached, particularly focusing on clarifying the decision for the losing party. Such documents are fundamental to upholding the intellectual integrity of the legal system, demonstrating impartiality and employing logical reasoning.

It was stressed that an effective judgment must commence with a clear summary of the facts of the case, outlining the cause of action and how the case was initiated. While concise, this factual narration must be accurate and sufficient to provide context for the legal principles applied. Following the facts, the judgement should immediately list the issues or charges. It is was advised, that preliminary matters such as jurisdiction or limitation period, should be resolved early in the proceedings, as this

can streamline the entire process by clarifying the core questions for all parties. Judges are also expected to detail the evidence presented, focusing only on relevant, admissible and cogent information, briefly stating its purpose. The contentions made by legal counsels should be summarised, with all non-frivolous arguments noted, and the judge should confirm that no further points are pressed by the end. Before reaching a conclusion on an issue or charge, the pertinent evidence must be thoroughly discussed. While individual styles vary, it is generally better to analyse the evidence before presenting a final opinion on its reliance.

It was stressed that the essence of the judgment lies in its reasoning, which provides the foundation for finding recorded. There is no rigid format for stating findings, but judges must articulate their reasons clearly, going beyond simple agreement or belief in evidence. These reasons, even if brief, must be logically sound. Judges must also be vigilant about potential biases both explicit and subconscious. The most effective way to prevent external or unknown factors from influencing a judgment is to strictly adhere to logical reasoning. The methodology used to reach a conclusion, and its articulation in the judgment, serves as a crucial test of the capability, fairness and integrity of the judge. It is essential to distinguish between neutrality, which implies non-partisanship and impartiality, which demands a judge transcend personal values to provide fair and equal treatment to the parties. Rationality, encompassing comprehension, logical inference, explanation and justification is loosely linked to this concept of reason.

The session thereafter, emphasised that a well-crafted judgment should conclude with a clear and precise operative Section that states the final decision on the issues. This

part must provide unambiguous directions that align with the prayers made, aiming to be self-executing and self-contained wherever possible. Brevity, simplicity and clarity are hallmarks of a good judgment, favouring plain language over jargon, unnecessary quotations or excessive technical terms was highlighted. A controlled tone, devoid of legalistic complexity, sharp criticism or sarcasm commands greater respect for the court. Judges were advised to have dictionary, grammar books and thesaurus readily available when drafting judgments. Additionally, judgments should be structured for easy navigation. Revision is crucial for correcting errors and confirming the correctness of the opinion. Judicial pronouncements must maintain sobriety, moderation and reserve avoid sarcasm and factiousness. It was underscored that ethical and practical considerations also govern judgment writing. Furthermore, a judge should not stray from the core controversy to criticise the conduct of parties or other authorities unless such conduct is directly under review and essential for the reasoning leading to the main conclusion. Judges must consciously avoid language that indicates gender, caste, creed or personal biases. Regarding timeliness it was indicated that reserved judgments should generally be pronounced within six weeks from the conclusion of the arguments. Once pronounced, a judgment cannot be altered or added to except as legally permitted. The diversity of opinions in judgment writing is recognised as a strength of the common law tradition, fostering an ongoing stream of ideas and communication methods that contribute to the development of legal principles. This legacy is passed down, with each generation of judges expected to nurture and advance it.

Session – 4 : Role and Responsibilities of DRT post SARFAESI Act

Speakers: Justice M.R. Shah and Justice DVSS Somayajulu

The session initiated with discussion of the pivotal case of *Pandurang Ganpati Chaugule v. Vishwasrao Patil Murgud Sahakari Bank Ltd., (2020) 9 SCC 215*, the discourse elucidated the assertion made by the Supreme Court that cooperative banks, as delineated under state legislation, alongside multi-state cooperative banks, are unequivocally classified as 'banks' pursuant to Section 2(1)(c) of the SARFAESI Act. The imperative of recovery forms the cornerstone of banking operations; thus, the recovery mechanisms articulated within Section 13 of the SARFAESI Act are indeed applicable to these institutions. Notably, the Parliament wields legislative authority under Entry 45 of List I in the Seventh Schedule of the Constitution of India, enabling the formulation of supplementary recovery procedures pertinent to cooperative banks under the ambit of Section 13 of the SARFAESI. The amendment encapsulated in Section 2(1)(c)(iv), which incorporates 'a multi-state cooperative bank,' does not transgress the bounds of ultra vires. Furthermore, it is incumbent upon cooperative banks to comply with the stipulations of the Banking Regulation Act concerning their banking operations. It was underscored that the enactment of the SARFAESI Act did not aim to exert regulatory control over the incorporation, governance, or dissolution of corporations, companies, or cooperative banks/societies. Rather, it is fundamentally designed to facilitate the recovery of dues owed to banks, encompassing cooperative banks, which is intrinsic to the banking enterprise.

The session further delved into the multifaceted roles and obligations of Debt Recovery Tribunals (DRTs) within the ambit of debt recovery mechanisms. The discussion encapsulated vital responsibilities such as the Recovery of Debts, Execution of Recovery Certificates, and handling of Appeals, exercising the Powers of a Civil Court, and ensuring Time-bound Disposal of cases. It was emphatically noted that DRTs wield the authority to adjudicate the precise quantum of debt owed to banking institutions and financial entities. Concurrently, they bear the responsibility of orchestrating the recovery of these debts from defaulting entities. Their jurisdiction extends to the attachment and sale of defaulter properties as a means of recouping owed amounts, with DRTs issuing Recovery Certificates post-evaluation of debts, which are then executed as civil court decrees. Moreover, DRTs adjudicate appeals arising from the decisions of Recovery Officers, while the Debt Recovery Appellate Tribunals (DRATs) serve as the appellate forum for reviewing DRT orders. The discourse further highlighted that DRTs possess the legal capacities akin to a civil court, including the authority to summon witnesses, compel document production, and issue warrants as necessary. Equally significant is the requirement for DRTs to resolve cases expediently, thereby fostering a mechanism for swift adjudication that balances the interests of both creditors and debtors. The discourse also illuminated the intricate interplay between DRTs and the Insolvency and Bankruptcy Code, 2016 (IBC), shedding light on the role of the DRT as Adjudicating Authority for personal insolvency and bankruptcy matters under Section 179 of the IBC.

While discussing concurrent applications filed before both DRT and National Company Law Tribunal (NCLT), Section 60 of the IBC was meticulously examined. In

this context, the landmark ruling in *Lalit Kumar Jain v. Union of India (2021) 9 SCC 321* was scrutinized. This pivotal judgment expanded rights of the creditors to initiate proceedings against personal guarantors of corporate debtors, thereby heightening the accountability of such guarantors. The court maintained that the involuntary actions of a principal debtor do not absolve a guarantor from liability. The applicability of moratorium provisions on personal guarantors under Section 14 of the IBC was underscored, alongside the pre-eminence of Section 238 IBC, which supersedes conflicting laws, with *SBI v. V. Ramakrishnan, (2018) 17 SCC 394* being referenced for its implications on personal guarantors within the insolvency framework. A thorough examination of the limitation period was conducted, emphasizing that the pendency of proceedings under the RDDBFI Act does not halt the limitation timeline applicable to actions initiated under the SARFAESI Act or the IBC. Proceedings under these statutes are independent and may coexist, provided they conform to the prescribed limitation laws. Notably, acknowledgment of debt in financial statements may extend limitation periods under Section 18 of the Limitation Act, 1963, with the Supreme Court's ruling in *Asset Reconstruction Company (India) Limited v. Bishal Jaiswal & Anr, 2021 SCC Online SC 321* elucidating that such acknowledgment is sufficient for extension, contingent upon the specific facts of each case.

Furthermore, the essential function of tribunals in alleviating the burden on conventional courts, thereby promoting swift case resolutions, was accentuated. DRT appeals against Recovery Officer Orders are permitted within a 30-day window, with a mandated resolution timeline of six months. However, the discussion acknowledged

the prevailing backlog of cases and resource limitations that hinder timely adjudication in these tribunals. Regarding interim orders, it was articulated that under Section 19(12) of the RDDBFI Act, DRTs possess the authority to issue interim orders restricting borrowers from disposing of or transferring assets without prior tribunal consent. The capacity of the tribunal to detain non-compliant borrowers for up to three months was also highlighted, alongside the ruling of the Supreme Court in *Industrial Credit and Investment Corporation of India Ltd v. Grapco Industries Ltd and ors, (1999) 4 SCC 710*, which affirmed the ability of the tribunal to grant interim ex parte injunctions, transcending the confines of the Code of Civil Procedure while adhering to natural justice principles. Moreover, the issuance of recovery certificates, deemed equivalent to court decrees for winding-up proceedings as per Sub-Section 22-A of Section 19 of the Debt Recovery Act, was addressed. The observation of the Supreme Court in *Kotak Mahindra Bank Limited v. A. Balakrishnan and Another (2022) 9 SCC 186* reaffirmed the authority of the presiding officer to issue recovery certificates concomitant with final orders.

The latter part of the session succinctly reviewed the appeals structure, encompassing the DRT to DRAT appeal process (Section 20), appeals against Recovery Officer Orders before the Presiding Officer of DRT (Section 30), and petitions against DRAT orders before the High Court (Article 226). It was stressed that historically, DRTs have been regarded as integral to India's financial framework; nevertheless, there remains an urgent necessity for structural enhancements within this system. Scholarly analysis underscores that the efficient recovery of debts is not merely beneficial but crucial for the economic vitality of the nation. Protracted recovery timelines hinder banking

operations, impede investment opportunities, and pose risks to economic advancement. A critical assessment suggests that the operational efficiency of DRTs could be markedly improved through the strategic deployment of adept personnel and the establishment of robust infrastructure, thereby facilitating the effective functioning of these essential tribunals.

Session – 5 Procedural Issues and Challenges faced by Debt Recovery Tribunals

Speakers: Justice M.R. Shah and Justice DVSS Somayajulu

The discourse commenced with a meticulous examination of the extensive powers vested in the presiding officers in relation to those exercised by a civil court judge. It was highlighted that limitations upon this authority are fundamentally grounded in the tenets of natural justice, equity, and conscience. A thorough disSection of Sections 19 and 22 of the RDB Act, 1993, compared with Section 13(2) and 13(4) of the SARFAESI Act, was embarked upon. These legislative provisions bear a resemblance to one another in their shared objective of facilitating recovery and restoration for applicants. It was enunciated that applications emerging from these statutory frameworks are invariably poised to elicit inquiries of both factual and legal nature. The adjudication of such matters must invariably be conducted with integrity and in a thoroughly rational manner. A reasoned order, thus rendered, possesses the resilience necessary to withstand scrutiny in appellate courts of higher jurisdiction. Furthermore, the intricate relationship between the SARFAESI and RDB Act, 1993, was elucidated. The SARFAESI Act, being a streamlined special enactment, aligns with international standards and best practices, empowering lenders in a manner

distinct from traditional court procedures. Under Section 13(4), comprehensive powers are conferred, permitting the seizure and overarching control of assets, which in turn generates a plethora of litigation aimed at expediting debt recovery. The discussion underscored a palpable concern regarding the proliferation of legal frameworks addressing identical issues, which has not only subverted the original intent behind these enactments but has also rendered the procedural landscape exceedingly cumbersome and protracted. Moreover, in light of the ruling of the Supreme Court in *Mardia Chemicals Ltd. v. Union of India, (2004) 4 SCC 311*, it was proposed that the constitutional validity of the act, when challenged in the Apex Court, underscored that it is not the sole prerogative of banks to designate any account as a non-performing asset (NPA). The Reserve Bank of India has delineated procedural guidelines that necessitate a thorough examination of such assets prior to any classification. While validity of the Act was affirmed, it is noteworthy that Section 17(2), which mandated the deposit of 75% of the claim amount as a precondition for contesting actions of lenders before the Debts Recovery Tribunal, was invalidated. On the matter of invoking Section 17, it was noted that although no action can be initiated under this Section at the juncture of Section 13(2), litigants still sought recourse through the tribunals. Pertaining to Section 13(4), the Supreme Court, in *Standard Chartered Bank v. Noble Kumar (2013) 9 SCC 620,* elucidated that the right to invoke Section 17 arises only upon dispossession and not prior. Furthermore, it is established that banks are not obliged to first attempt to regain possession under Section 13(4) of the SARFAESI Act before approaching a Magistrate; they retain the prerogative to directly engage the Magistrate. This principle was reiterated, albeit with

qualifications, in *Hindon Forge (P) Ltd. v. State of U.P., (2019) 2 SCC 198*, where it was clarified that an application under Section 17(1) remains maintainable prior to taking physical possession, even at the stage of constructive or symbolic possession. A litigant may approach the DRT even if a possession notice has been served by the borrower. The session transitioned to an exploration of the factors contributing to the substantial backlogs faced by DRTs. The enumerated factors include, inter alia: lag in timely appointments of officers, encompassing both Presiding and Recovery Officers, who are integral to the debt recovery framework; it is rare for a DRT to operate at full capacity; the Recovery Officer frequently bears an excessive workload due to assignments across multiple presiding officers, which hampers effective implementation; inadequate infrastructure and an inhospitable environment have caused a collapse of the operational ecosystem; lack of due diligence among banks necessitates the establishment of a forum to serve as an intermediary connecting the Government with DRTs and personnel, thereby facilitating cohesive and responsive action; delays caused by the higher judiciary further obstruct the timely dispensation of justice. It was stressed that in the wake of the COVID-19 pandemic, the DRTs have confronted an unprecedented surge in the accumulation of pending cases, posing a formidable challenge that continues to elude effective resolution. This mounting backlog not only overburdens the judicial framework but also accentuates the pressing need for systemic reforms aimed at reinstating efficiency and punctuality in the adjudication of financial disputes.