

## TABLE OF CONTENTS

<b>Reference Material</b>		
<b>SESSION- 1</b>		
<b><u>RECOVERY OF DEBTS AND BANKRUPTCY ACT, 1993 (RDB):</u></b>		
<b><u>GENESIS &amp; OVERVIEW</u></b>		
S.No.	<u>Articles &amp; Book Excerpts</u>	Pg. No.
1.	Taxmann’s SARFAESI & Debts Recovery Law Manual, <b><i>Background of RDB Act</i></b> , Chapter-1, Taxmann Publications (P) Ltd. January 2023.	
2.	Souvik Ganguly and Altamash Qureshi, <b><i>India: The Ambiguity on Jurisdiction of NCLT and DRT under IBC</i></b> , 27 December 2021. Available at : <a href="https://www.mondaq.com/india/insolvencybankruptcy/1144054/the-ambiguity-on-jurisdiction-of-nclt-and-drt-under-ibc">https://www.mondaq.com/india/insolvencybankruptcy/1144054/the-ambiguity-on-jurisdiction-of-nclt-and-drt-under-ibc</a>	
3.	Taxmann’s SARFAESI & Debts Recovery Law Manual, <b><i>Original Application (OA) to DRT for Recovery of Debts</i></b> , Chapter-2, Taxmann Publications (P) Ltd. January 2023.	
4.	Taxmann’s SARFAESI & Debts Recovery Law Manual, <b><i>Debt Recovery Tribunal</i></b> , Chapter-3, Taxmann Publications (P) Ltd. January 2023.	
5.	Vinod Kothari, <b><i>Debt Recovery Law in India: An Overview</i></b> , Securitisation: Asset Reconstruction and Enforcement of Security Interests (Lexis Nexis,5th Edition(2017)	
<u>Case Law</u>		
<i>(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)</i>		
1.	<b><i>MP High Court Bar Association v. Union of India &amp; ORS [2023] 7 S.C.R. 347</i></b> <i>The Supreme Court affirmed mandatory e-filing in Debts Recovery Tribunals (DRTs) and Debts Recovery Appellate Tribunals (DRATs). The court, while remarking that other Courts and Tribunals should also replicate the model of mandatory e-filing, also passed certain directions to make e-filing more accessible for everyone.</i>	
2.	<b><i>Bank of Rajasthan Ltd. v. VCK Shares &amp; Stock Broking Services Ltd., (2023) 1 SCC 1</i></b> <ul style="list-style-type: none"> <li>• <i>Jurisdiction of a Civil Court to try a suit filed by a borrower against a Bank or Financial Institution is not ousted by virtue of the scheme of the RDB Act in relation to the proceedings for recovery of debt</i></li> <li>• <i>An independent suit filed by the borrower against the bank or financial institution cannot be transferred to be tried along with application under the RDB Act, as it is a matter of option of the defendant in the claim under the RDB Act</i></li> <li>• <i>The provision seeking to bar jurisdiction of a Civil Court requires strict interpretation and the Court would normally lean in favour of construction which would uphold the jurisdiction of the Civil Court. (Para 43)</i></li> </ul>	

	<ul style="list-style-type: none"> <li>• The judgments in <i>United Bank of India, Calcutta v. Abhijit Tea Co. Pvt. Ltd.</i> (2000) 7 SCC 357 and <i>State Bank of India vs. Ranjan Chemicals Ltd.</i> (2007) 1 SCC 97 have been overruled through this.</li> </ul>
3.	<p><b><i>Varimadugu Obi Reddy v. B. Sreenivasulu</i>, (2023) 2 SCC 168</b></p> <p><i>Without exhausting the statutory remedy of appeal under Section 18 of SARFAESI Act, the borrowers approached the High Court by filing the writ application - Practice of entertaining the writ application by the High Court in exercise of jurisdiction under Article 226 of the Constitution without exhausting the alternative statutory remedy deprecated. (Para 34)</i></p>
4.	<p><b><i>Ishwarlal Shankarlal Lalwani v. Union of India</i>, 2022 SCC OnLine Bom 6723</b></p> <p><i>Divesting DRTs of their pecuniary jurisdiction without any amendment to RDB Act 1993 is unsustainable. The Court noted that prima facie, the impugned notification would divest the jurisdiction of Debts Recovery Tribunals established at various locations on the ground of pecuniary limitation created by Notification, without any amendment to the RDB Act.</i></p>
5.	<p><b><i>M/S. Mahee Cotex v. Central Bank Of India, Authorised Officer, Gujarat High Court, R/Special Civil Application No. 14092 of 2022</i></b></p> <p><i>The court has declined to exercise its writ jurisdiction under Article 226 in the petition challenging order of the Debt Recovery Tribunal which rejected Petitioner's application for preponement of hearing, fearing dispossession from property. It was observed that the remedies available to an aggrieved person under the SARFAESI Act are both expeditious and effective and thus court must refrain from exercising its writ jurisdiction in such matters.</i></p>
6.	<p><b><i>M/S Ansu Enterprises Pvt. Ltd. v. The Registrar, DRT-I Ernakulam &amp; Ors WP(C) NO. 38962 OF 2022 High Court Of Kerala At Ernakulam</i></b></p> <p><i>High Court observed that the right of access to a court of law has already been declared to be a fundamental right. An effective adjudicatory mechanism which is reasonably accessible in terms of distance, is an essential facet of the said right. High Court stayed of operation of Notification dated 04-10-2022, to the extent it transfers/confers jurisdiction of all applications involving a debt amount of Rs.100 Crores and above falling within the jurisdiction of Debts Recovery Tribunal-I and Debts Recovery Tribunal-II, Ernakulam with the Debts Recovery Tribunal-I, Chennai, until disposal of this writ petition.</i></p>
7.	<p><b><i>R.K. Industries (Unit-II) LLP v. H.R. Commercial (P) Ltd.</i>, 2022 SCC OnLine SC 1124</b></p> <p><i>The SC held that the scope of judicial review at the stage of liquidation sale is limited, as the NCLT and NCLAT cannot interfere in commercial transactions and purely business driven decisions taken during the liquidation sale process. The SC pointed out that NCLTs and NCLAT are not courts of equity and cannot exercise plenary powers as their jurisdiction is limited.</i></p>
8.	<p><b><i>Balaji Enterprises v. Authorised Officer in SB Civil Writ Petition No 9054 of 2021</i></b> These writ petitions filed by the petitioners deserves to be dismissed for the reasons; firstly, the petitioners are having alternative efficacious statutory remedy under the SARFAESI Act, 2002; secondly, the guidelines issued by the R.B.I. can be very much looked into by the Debts Recovery Tribunal as well as by the banks while examining the reply if submitted by the petitioners against the notices served upon them and lastly in the facts and circumstances in view of the judgment passed by the Hon'ble Supreme Court in the matter of I.C.I.C.I Bank</p>

	<i>Limited as well as the Pheonix India (both supra), I am not inclined to exercise the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. Hence, these writ petitions stand dismissed.</i>
9.	<p><b>Nusli Neville Wadia v. Ivory Properties, (2020) 6 SCC 557</b></p> <ul style="list-style-type: none"> <li>- <i>The term ‘jurisdiction’ as defined refers to the authority and power to accept, entertain, hear and decide cases as per the limits defined by the statutes that grants jurisdiction to the said court or tribunal. held that Article 62 of the Limitation Act 1963 (“Limitation Act”), which provides for a period of limitation of 12 years for suit for recovery of money secured by mortgage, will be applicable only for suit and not for an application under Section 7 of the Code.</i></li> <li>- <i>Instead, “application” filed under Section 7 of the Code would fall under the residuary Article 137 of the Limitation Act, which provides for a period of limitation of three years from the time when the right to apply accrues.</i></li> <li>- <i>he Court further held that limitation period would run only from the date on which the right to sue accrued and not from the date of commencement of the Code. The issue came into the consideration of the Supreme Court again in Jignesh Shah and Anr. Versus Il&amp;FS (Writ Petition (Civil) No.455 OF 2019), where the Court reiterated that Article 137 of the Limitation Act would be applicable to the application filed under the Code.</i></li> </ul>
10.	<p><b>SBI v. Allwyn Alloys (P) Ltd., (2018) 8 SCC 120</b></p> <p><i>Court exponentially expanded the scope of bar upon the jurisdiction of civil courts thereby expanding the jurisdiction of the Debt Recovery Tribunals (DRT) as provided under SARFAESI Act. It held that the DRT is empowered to decide upon the title of the mortgage property, implying that DRT could adjudicate upon civil rights issues. The mandate of Section 13 and in particular Section 34 of the SARFAESI Act clearly bars the filing of a civil suit. The Hon'ble Court also observed that the approach of the Hon'ble High Court that DRT was not competent to deal with factual issues warranting production of evidence and a full-fledged trial was completely fallacious and untenable in law.</i></p> <p><i>Similar views can be traced in the judgements of the apex court in <b>Canara Bank v. P. Selathal, (2020) 13 SCC 143</b> and <b>Electrosteel Castings Ltd. v. UV Asset Reconstruction Co. Ltd., (2022) 2 SCC 573</b></i></p>
11.	<p><b>State Bank of India v. Anish Kumar, 2018 SCC OnLine P&amp;H 6923</b></p> <p><i>The question of title and partition of the property can be decided by the DRT. It has been observed that Section 17 of the SARFAESI Act does not in any manner restrict the jurisdiction of the DRT to decide the question of title or partition of the property. It has also been observed that the DRT is entitled to decide any dispute which may arise in the facts and circumstances of the case, if the proceedings under Section 13 of the Act has been initiated and the any person is aggrieved of the same.</i></p>
12.	<p><b>Meherangiz J. Rangoonwalla v. State Bank of India, 2016 SCC OnLine Bom 8878.</b></p> <p><i>The case dealt with the jurisdiction of DRT and DRAT to adjudicate title disputes. The court held that the issues of title over a property require a full-fledged trial as there are nuanced questions of facts to be gone into. This implied that there is no bar upon the civil courts to try cases concerning title-disputes. <b>Reversed in SBI v. Allwyn Alloys (P) Ltd., (2018) 8 SCC 120</b></i></p>

13.	<p><b><i>State Bank of India v. Sagar (2011) 3 Mah LJ 71</i></b>  <i>The jurisdiction of the Civil Court to entertain, try and decide any suit or proceeding in respect of the property, which is the subject matter of security interest created in favour of a secured creditor, is barred only to the extent of the matters, which the Debts Recovery Tribunal or the Appellate Tribunal is empowered</i></p>
14.	<p><b><i>United Bank of India v. Satyawati Tondon, (2010) 8 SCC 110</i></b>  <i>Where statutory remedies are available under a fiscal statute then exercise of jurisdiction under Article 226 by High Court for passing orders, which could have serious adverse impact on the right of banks and other financial institutions to recover their dues, is not warranted</i></p>
15.	<p><b><i>Indian Bank v. ABS Marine Products (P) Ltd., (2006) 5 SCC 72</i></b>  <i>Sections 17 and 18 of the DRT Act bar the jurisdiction of civil courts only with respect to the application by banks or financial institutions for recovery of their debts. Moreover, there has been no conferment of jurisdiction upon the DRT to try independent proceedings initiated by the borrowers or any other person against banks or financial institutions. Hence, there is no bar on the civil courts with respect to individual and independent claims by any person</i></p>
16.	<p><b><i>Mardia Chemicals Ltd. v. Union of India, (2004) 4 SCC 311</i></b>  <i>The jurisdiction of civil courts is barred only to the extent the DRT or the appellate tribunal is allowed to operate, i.e., regarding those matters that the tribunals have express authority to adjudicate. Section 34 of the SARFAESI Act itself uses the words ‘in respect of any matter’ indicate wider interpretation, its extent is limited by the qualifying words ‘under this Act’.</i>  <i>If the actions of secured creditors are untenable, fraudulent or apparently absurd, then the jurisdiction of civil courts can be invoked. Thus, DRT can only deal with issues that are remotely incidental or connected to recovery of debts due to banks. Now, while this might include issues concerning, for example, the validity of the mortgage, the DRT by the aforementioned interpretation cannot adjudicate the questions of title of the property that was mortgaged. This is because it becomes a matter of individual/ independent claim</i></p>
17.	<p><b><i>State of Karnataka v. Vishwabharathi House Building Coop. Society, (2003) 2 SCC 412 A</i></b>  <i>bar on civil courts concerning only a few of the issues in the case cannot be extended to infer bar upon all the issues in that case. Also, in dealing with the questions of exclusion of jurisdiction, the presumption is always</i>  <i>in favour of the jurisdiction of the civil courts.</i></p>
18.	<p><b><i>A. Vivekanandam v. Bank of Madura Ltd., 2002 SCC OnLine Mad 99</i></b>  <i>Held, as S. 20 enables the aggrieved person to file appeal and there is effective alternative remedy available judicial prudence demands that the court refrains from exercising its jurisdiction under the constitutional provisions (Article 227).</i></p>
19.	<p><b><i>Punjab National Bank v. O.C. Krishnan, (2001) 6 SCC 569;</i></b>  <i>“The Act has been enacted with a view to provide a special procedure for recovery of debts due to the banks and the financial institutions. There is a hierarchy of appeal provided in the Act, namely, filing of an appeal under Section 20 and this fast-track procedure cannot</i></p>

	<i>be allowed to be derailed either by taking recourse to proceedings under Articles 226 and 227 of the Constitution or by filing a civil suit, which is expressly barred. Even though a provision under an Act cannot expressly oust the jurisdiction of the court under Articles 226 and 227 of the Constitution, nevertheless, when there is an alternative remedy available, judicial prudence demands that the Court refrains from exercising its jurisdiction under the said constitutional provisions ”</i>
20.	<b><i>ICICI v. Ceeta Industries (2001) 105 Comp Cas 426 ( Bom HC)</i></b> <i>DRT can decide questions of its jurisdiction under section 19 of the DRT Act.</i>
21.	<b><i>ICICI v. Grapco Industries Ltd. (1999) 4 SCC 710</i></b> <i>The tribunal can grant interim ex parte injunctions and can even travel beyond Code of Civil Procedure and the only fetter that is put on its powers is to observe principles of natural Justice. The jurisdiction of DRT is much wider than that of a civil court. It has also been observed that the DRT can travel beyond the CPC and the only fetter that is put on its powers is to observe the principles of natural justice.</i>
22.	<b><i>Cofex Exports Ltd. v. Canara Bank, 1997 SCC OnLine Del 515</i></b> <i>The court held that the law creating tribunal and conferring jurisdiction on it has not provided for set off or counter claim being entertained by it just as the CPC does it for Civil Courts. If a counter claim being entertained by it as the CPC does it for Civil Courts. If a counter claim was to be tried by Tribunal it may have to go in disputes arising between the parties through not filling the same character. There may be disputes which by no stretch of imagination can be tried by Tribunal. Claims preferred by Banks or financial institutions are capable of being disposed of by summary by summary inquiry while claims preferred by other persons would not be capable of being so disposed of. The principle of convenience and the mechanics of litigation before Tribunal (as set out in the Act) both exclude set off or counter claim being placed before the Tribunal. If set off, counter claims and cross suits were allowed to be raised before the Tribunal, the very object behind its creation will be lost.</i>
23.	<b><i>Dhulabhai And Others vs The State Of Madhya Pradesh (1969 AIR 78, 1968 SCR (3) 662)</i></b> <i>It laid down criteria in order to test whether the language of a statute indicates a bar wherein it held that if the statute provides absolution to orders of special tribunals, the civil court's jurisdiction should be barred in case there is a satisfactory cure accessible to do what the common courts would ordinarily do in a suit. Yet, in the event that provisions of a specific Act have not been followed or the legal tribunal has not acted incongruity with fundamental standards of the legal strategy then such jurisdiction by a common court isn't avoided. The provisions laid down under the particular Act as ultra vires cannot be challenged and brought before tribunals constituted under that Act. Even the high court has no jurisdiction to question that matter. Therefore, though the Civil court has jurisdiction to examine whether tribunal and quasi-judicial bodies or statutory authority is acting within its jurisdiction but once it is found that such authority had initial jurisdiction then the court cannot give any erroneous order to the authority.</i>

<b>SESSION-2</b>	
<b>CASE MANAGEMENT: IMPROVING EFFICIENCY &amp; EFFICACY OF DRT</b>	
1.	Justice R. Banumathi, <i>Judiciary, Judges and The Administration of Judges</i> 181-192 (Thompson Reuters 2020)
2.	Justice Roshan Dalvi, <i>The Business of Court Management</i> , 16 (3) Nyaya Deep 13-35 (2015)
3.	Justice P. Sathasivam, <i>Effective District Administration and Court Management</i> , (2014) 1 SCC J-25
4.	Emmanuel Jeuland, “ <i>Towards a New Court Management? General Report</i> ” [Research Report] Université Paris 1 - Panthéon Sorbonne. 2018.
5.	Supreme Court E-Committee Documents: <ul style="list-style-type: none"> <li>- <i>The Milestones of e-Committee</i>, Supreme Court Of India (2021)</li> <li>- <i>Various initiatives of e-committee</i>, Supreme Court of India: A Compilation <i>Digital Courts Vision &amp; Roadmap</i></li> </ul>
<b>Additional Reading:</b>	
<ul style="list-style-type: none"> <li>• <i>The Woolf Report</i>, 3 Int'l J.L. &amp; Info. Tech. 144 (1995)</li> </ul>	
<b><u>Case Law</u></b>	
<i>(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)</i>	
1.	<b><i>CCE &amp; Service Tax v. Bilfinder Neo Structo Contruccion Ltd.</i></b> , (2024) 7 SCC 59 [ <i>ensuring that litigation involving the Union of India and the Tribunals constituted under revenue legislation, is duly monitored so as to provide seamless integration at all stages by adopting Information and Communication Technology (ICT).</i> ]
2.	<b><i>Sarvesh Mathur v. High Court of Punjab &amp; Haryana</i></b> , 2023 SCC OnLine SC 1293 <i>This writ petition arose as a consequence to the discontinuation of virtual hearings by the Punjab and Haryana High Court, which was previously functioning in hybrid mode, especially during the Covid-19 Pandemic. It was held by the Supreme Court that technology plays an essential role in securing access to courtrooms and justice and lawyers accustomed to using electronic gadgets cannot be asked to turn the clock back and go back to the age of paperbacks at this stage. Denying access to virtual participants, requiring prior application and mandating age criteria discourages litigants to use technology at a time where the Bar and Bench must aid each other to create a technologically adept and friendly environment.</i>
3.	<b><i>Pradyuman Bisht vs. Union of India and Others</i></b> , 2023 SCC OnLine SC 983 <i>Considering the non-negotiable nature of the need to ensure safety and security of stakeholders in the judicial process, the the Apex Court issued guidelines to implement security measures in Courts across the country, with regard to a) Installation of CCTV cameras and other measures to ensure security within court premises; and b) digitisation of Judicial Infrastructure.</i>

4.	<p><b>Swapnil Tripathi v. Supreme Court of India</b>, (2018) 10 SCC 639</p> <p><i>The Court observed that technology can be used for expeditious disposal of cases and enhance transparency. The court also explored the feasibility of live streaming of court proceedings</i></p>
5.	<p><b>In Re: To Issue Certain Guidelines Regarding Inadequacies and Deficiencies In Criminal Trials v. The State of Andhra Pradesh &amp; Ors.</b>, (2021) 10 SCC 598</p> <p><i>After noticing common deficiencies which occur in the course of criminal trials and certain practices adopted by trial courts in criminal proceedings as well as in the disposal of criminal cases and causes directed all High Courts to take expeditious steps to incorporate the Draft Rules of Criminal Practice, 2021 as part of the rules governing criminal trials, and ensure that the existing rules, notifications, orders and practice directions are suitably modified, and promulgated (wherever necessary through the Official Gazette) within 6 months.</i></p>
6.	<p><b>All India Judges' Association v. UoI</b>, (2018) 17 SCC 555</p> <p><i>Sound infrastructure is vital for strong and stable judicial system. It is imperative for State to provide requisite infrastructure to judiciary- Poor infrastructure causes impediments in access to justice – Democracy cannot afford to undermine core values of Rule of Law. Adequacy of judicial resources/infrastructure- stages in court development, set out-necessary facilities to be part of a court complex, listed- handling of financial; and budgeting matters, enumerated- Further directions in providing court infrastructure, issues.</i></p>
7.	<p><b>Krishnakant Tamrakar v. State of Madhya Pradesh</b>, (2018) 17 SCC 27</p> <p><i>The Court observed that there is a need to revisit decongestion of constitutional courts possibility of five year old cases pending in the High Courts particularly the criminal appeals within the existing system</i></p>
8.	<p><b>Hussain v. UoI</b>, (2017) 5 SCC 702</p> <p><i>Bail applications be disposed of normally within one week;] [Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. This Court has held that while a person in custody for a grave offence may not be released if trial is delayed, trial has to be expedited or bail has to be granted in such cases [Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) v. Union of India, (1994) 6 SCC 731, para 15 : 1995 SCC (Cri) 39]Shaheen Welfare Association v. Union of India (1996) 2 SCC 616</i></p>
9.	<p><b>Imtiyaz Ahmed v. State of Uttar Pradesh</b> (2017) 3 SCC 658</p> <p><i>The Supreme Court took note of the huge pendency of cases and issued certain guidelines regarding the clearing of arrears, timely disposal, pretrial custody issues, trial date certainty, etc. and suggested the application of the “unit system” which allocates different units for disposal of different cases. Such Unit system should be then applied to assess the required judge strength.</i></p>
10.	<p><b>Surjit Singh v. Gurwant Kaur</b>, (2015) 1 SCC 665</p> <p><i>It has been held by the Apex Court that exercise of power under Order 41 Rule 27 C.P.C. is circumscribed by limitation specified in the language of the Rule and it is duty of the Court to come to a definite conclusion that it is really necessary to accept the document as additional evidence to enable it to pronounce the judgment and in case Appellate Authority</i></p>

	<i>is able to pronounce the judgment with material before it without taking in to consideration the additional evidence sought to be adduced, the application for additional evidence is liable to be rejected.</i>
11.	<b><i>Kishore Samrite v. State of Uttar Pradesh</i></b> , (2013) 2 SCC 398 <i>The Apex Court held that the party not approaching the court with clean hands would be liable to be non-suited and such party, who has also succeeded in polluting the stream of justice by making patently false statements, cannot claim relief specifically under Art. 136 of the Constitution. The person seeking equity must do equity. It is not just the clean hands, but also clean mind, clean heart and clean objective that are the equi-fundamentals of judicious litigation.</i>
12.	<b><i>Rameshwari Devi v. Nirmala Devi</i></b> , (2011) 8 SCC 249 <i>The court laid down guidelines which the courts should adopt in preventing prolonged litigation and also cautioning courts on the grant of indiscriminate ex parte orders.</i>
13.	<b><i>State of Maharashtra and P.C. Singh v. Praful B. Desai</i></b> , (2003) 4 SCC 601

**SESSION -3**  
**JUDICIAL DISCRETION; AND THE ART, CRAFT AND SCIENCE OF DRAFTING JUDGMENTS/ORDERS**

1.	Justice R. V. Raveendran, <b><i>Rendering Decisions- Basics for New Judges(Decision-Making &amp; Judgment-Writing)</i></b> in ANOMALIES IN LAW & JUSTICE: WRITINGS RELATED TO LAW & JUSTICE, EBC Publishing (P) Ltd. (2021) pp. 319-361	
2.	Justice G. Raghuram, <b><i>Art of Judgment</i></b>	
3.	Justice Sunil Ambwani, <b><i>The Art of Writing Judgment</i></b> in JUDGMENTS AND HOW TO WRITE THEM, Eastern Book Company (2018)	
4.	S. I. Strong, <b><i>Writing Reasoned Decisions and Opinions: A Guide for Novice, Experienced, and Foreign Judges</i></b> , 2015(1) Journal of Dispute Resolution 93 – 128 (2015)	
5.	S.D. Singh, <b><i>Judgments in General</i></b> , in JUDGMENTS AND HOW TO WRITE THEM, EBC Publishing (P) Ltd. (2018) pp. 8-45	
6.	S. Sivakumar , <b><i>Judgment Or Judicial Opinion: How To Read And Analyse</i></b> , Journal of the Indian Law Institute , July – September 2016, Vol. 58, No. 3 (July – September 2016), pp. 273-312	
7.	Justice Sunil Ambwani, <b><i>Ethical Reasoning in Judicial Process</i></b> , (2012) 4 SCC J-35	
8.	Justice Michael Kirby CMG, <b><i>The Australian Law Journal on the Writing of Judgments</i></b> pp. 29-50	
9.	David Neuberger, <b><i>Judgment and Judgments – The Art of forming and writing Judicial Decisions</i></b> , Denning Society Lecture delivered at Lincoln’s Inn, 30 November 2017	



10.	Kenneth Einar Himma, <i>Judicial Discretion and the Concept of Law</i> , Oxford Journal of Legal Studies , Spring, 1999, Vol. 19, No. 1 (Spring, 1999), pp. 71-82	
11.	Nathan Isaacs, <i>The Limits of Judicial Discretion</i> , The Yale Law Journal , Feb., 1923, Vol. 32, No. 4 (Feb., 1923), pp. 339-352	
<b><u>Case Law</u></b> <i>(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)</i>		
1.	<b><i>SBI &amp; Another v. Ajay Kumar Sood</i></b> , (2022) SCC OnLine 1067 <i>The judgment replicates the individuality of the judge and therefore it is indispensable that it should be written with care and caution. The reasoning in the judgment should be intelligible and logical. Clarity and precision should be the goal. All conclusions should be supported by reasons duly recorded. The findings and directions should be precise and specific. Writing judgments is an art, though it involves skillful application of law and logic.</i>	
2.	<b><i>Aparna Bhat v. State of M.P.</i></b> (2021) SCC OnLine SC 230 <i>Court to make sure survivor can rely on their impartiality and neutrality. Sensitivity in judicial approach/language/reasoning. Sensitivity to the concerns of survivors of sexual offences. Embargo on orders that reflect adversely on the judicial system/undermining the guarantee to fair justice. Removing gender bias.</i>	
3.	<b><i>Shakuntala Shukla v. State of Uttar Pradesh</i></b> , 2021 SCC OnLine SC 672 “Judgment” means a judicial opinion which tells the story of the case; what the case is about; how the court is resolving the case and why. ... It is also defined as the decision or the sentence of a court in a legal proceeding along with the reasoning of a judge which leads him to his decision. ... It is not adequate that a decision is accurate, it must also be reasonable, logical and easily comprehensible. The judicial opinion is to be written in such a way that it elucidates in a convincing manner and proves the fact that the verdict is righteous and judicious. What the court says, and how it says it, is equally important as what the court decides. ... The judgment replicates the individuality of the judge and therefore it is indispensable that it should be written with care and caution. The reasoning in the judgment should be intelligible and logical. Clarity and precision should be the goal. All conclusions should be supported by reasons duly recorded.] (Refer Para 9)	
4.	<b><i>Ajit Mohan v. Legislative Assembly Delhi</i></b> , 2021 SCC OnLine SC 495 <i>It is the need of the hour to write clear and short judgments which the litigant can understand. The Wren &amp; Martin principles of precis writing must be adopted.</i>	
5.	<b><i>Chief Election Commissioner of India v. M. R. Vijayabhaskar</i></b> , (2021) 9 SCC 770 <i>Judges should exercise caution and circumspection in the use of language while making oral remarks in court. Language, both on the Bench and in judgments, must comport with judicial propriety.</i>	
6.	<b><i>UPSC v. Bibhu Prasad Sarangi</i></b> , (2021) 4 SCC 516 <i>Technology enables Judges to bring speed, efficiency and accuracy to judicial work. But a prolific use of the “cut-copy-paste” function should not become a substitute for substantive reasoning which, in the ultimate analysis, is the defining feature of the judicial process. Judges are indeed hard pressed for time, faced with burgeoning vacancies and large case-</i>	

	<i>loads. Crisp reasoning is perhaps the answer.</i>
7.	<b>Balaji Baliram Mupade v. State of Maharashtra, 2020 SCC OnLine SC 893</b> <i>Judicial discipline requires promptness in the delivery of judgments - an aspect repeatedly emphasized by this Court. The problem is compounded where the result is known but not the reasons. This deprives any aggrieved party of the opportunity to seek further judicial redressal in the next tier of judicial scrutiny</i>
8.	<b>Surjeet Singh v. Sadhu Singh, (2019) 2 SCC 396</b> <i>... there was no need to cite several decisions and that too in detail. Brevity being a virtue, it must be observed as far as possible while expressing an opinion.</i>
9.	<b>Nipun Saxena v. Union of India, (2019) 2 SCC 703,</b> <i>Keeping in view the social object of preventing the victims or ostracising of victims, it would be appropriate that in judgments of all the courts i.e. trial courts, High Courts and the Supreme Court the name of the victim should not be indicated. This has been repeated in a large number of cases and we need not refer to all.</i>
10.	<b>Kanailal v. Ram Chandra Singh, (2018) 13 SCC 715</b> <i>Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived; Objectivity in reasons; Adjudging validity of decision; Right to reason is indispensable part of sound judicial system; Salutary requirement of natural justice.</i>
11.	<b>Joint Commissioner of Income Tax v. Saheli Leasing &amp; Industries Ltd., (2010) 6 SCC 384</b> <i>State only what are germane to the facts of the case; Must have correlation with applicable law and facts; Ratio decidendi should be clearly spelt out; Go through the draft thoroughly; Sustained chronology in judgment – perfect sequence of events; Citations should afford clarity rather than confusion; Pronounce judgment at the earliest.</i>
12.	<b>Board of Trustees of Martyrs Memorial Trust v. Union of India, (2012) 10 SCC 734</b> <i>Brevity in judgment writing; Due application of mind; Clarity of reasoning; Focused consideration; Examination of every matter with seriousness; Sustainable decision</i>
13.	<b>B (A Child)(Adequacy of Reasons), [2022] EWCA Civ 407 (Lord Justice Peter Jackson &amp; Lady Justice Nicola Davies) (Relevant Paras 59 and 60)</b> <i>Judgments reflect the thinking of the individual judge and there is no room for dogma, but in my view a good judgment will in its own way, at some point and as concisely as possible: state the background facts; identify the issue(s) that must be decided; articulate the legal test(s) that must be applied; note the key features of the written and oral evidence, bearing in mind that a judgment is not a summing-up in which every possibly relevant piece of evidence must be mentioned; record each party's core case on the issues; make findings of fact about any disputed matters that are significant for the decision; evaluate the evidence as a whole, making clear why more or less weight is to be given to key features relied on by the parties; give the court's decision, explaining why one outcome has been selected in preference to other possible outcomes.</i> <i>The last two processes – evaluation and explanation – are the critical elements of any judgment. As the culmination of a process of reasoning, they tend to come at the end, but they are the engine that drives the decision, and as such they need the most attention. A judgment</i>

	<p><i>that is weighed down with superfluous citation of authority or lengthy recitation of inessential evidence at the expense of this essential reasoning may well be flawed. At the same time, a judgment that does not fairly set out a party's case and give adequate reasons for rejecting it is bound to be vulnerable.</i></p>
<p>14.</p>	<p><b><i>Kranti Associates (P) Ltd. v. Masood Ahmed Khan, (2010) 9 SCC 496</i></b></p> <p><i>It was held,</i></p> <ul style="list-style-type: none"> <li>(a) <i>In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.</i></li> <li>(b) <i>A quasi-judicial authority must record reasons in support of its conclusions.</i></li> <li>(c) <i>Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.</i></li> <li>(d) <i>Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.</i></li> <li>(e) <i>Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.</i></li> <li>(f) <i>Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.</i></li> <li>(g) <i>Reasons facilitate the process of judicial review by superior courts.</i></li> <li>(h) <i>The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.</i></li> <li>(i) <i>Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose: to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.</i></li> <li>(j) <i>Insistence on reason is a requirement for both judicial accountability and transparency.</i></li> <li>(k) <i>If a judge or a quasi-judicial authority is not candid enough about his/her decisionmaking process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.</i></li> <li>(l) <i>Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.</i></li> <li>(m) <i>It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making makes the judges and decision-makers less E-lecture series for officers posted at AR Offices and Field Officers of CBIC [Online Mode] 30th December, 2022 (Friday) prone to errors and makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37] .)</i></li> <li>(n) <i>Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA</i></li> </ul>

	<p><i>Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, “adequate and intelligent reasons must be given for judicial decisions”.</i></p> <p>(o) <i>In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.</i></p>
15.	<p><b><i>Siddharth Vashisht Aias Manu Sharma v. State (NCT of Delhi), 2010 6 SCC 1</i></b></p> <p><i>Adverse remarks - Trial Judge made adverse remarks against prosecution-And Division Bench against trial Judge-Such adverse remarks expunged. The higher Courts in exercise of their appellate or original jurisdiction may find patent errors of law or fact or appreciation of evidence in the judgment which has been challenged before them. Despite this, what is of significance is that, the Courts should correct the error in judgment and not normally comment upon the Judge. The possibility of taking a contrary view is part of the system. The judicial propriety and discipline demand that strictures or lacerating language should not be used by the higher Courts in exercise of their appellate or supervisory jurisdiction. Judicial discipline requires that errors of judgments should be corrected by reasons of law and practice of passing comments against the lower courts needs to be deprecated in no uncertain terms. The individuals come and go but what actually stands forever is the institution.</i></p>
16.	<p><b><i>Reliance Airport Developers (P) Ltd. v. Airports Authority of India, (2006) 10 SCC 1</i></b></p> <p><i>Discretion, in general, is the discernment of what is right and proper. It denotes knowledge and prudence, that discernment which enables a person to judge critically of what is correct and proper united with caution; nice discernment, and judgment directed by circumspection: deliberate judgment; soundness of judgment; a science or understanding to discern between falsity and truth, between wrong and right, between shadow and substance, between equity and colourable glosses and pretences, and not to do according to the will and private - affections of persons.</i></p> <p><i>When it is said that something is to be done within the discretion of the authorities, that some tiling is to be done according to the rules of reason and justice, not according to private opinion: according to law and not humour. It is to be not arbitrary, vague, and fanciful, but legal and regular. And it must be exercised within the limit, to which an honest man, competent to the discharge of his office ought to confine himself (Per Lord HALSBURY, L C. in Sharp v. Wakefield (1891) AC 173. The word "discretion" standing single and unsupported by circumstances signifies exercise of judgment, skill or wisdom as distinguished from folly, unthinking or haste; evidently therefore a discretion cannot be arbitrary but must be a result of judicial thinking. (33 Bom 334) The word in itself implies vigilant circumspection and care: therefore, where the Legislature concedes discretion it also imposes a heavy responsibility.</i></p>
17.	<p><b><i>Banarsi Das Cotton Mills (P) Ltd. v. State of Haryana, 1996 SCC OnLine P&amp;H 287</i></b></p> <p><i>There can be no manner of doubt that while deciding the appeal the Higher Level Screening Committee acts as a quasi-judicial authority and it is duty bond to record reasons in support of its decision. The recording of reasons and communication thereof is imperative for compliance of the principles of natural justice which must inform the proceedings of every quasi-judicial body and even in the absence of a statutory provision or administrative</i></p>

	<i>instructions requiring recording of reasons in support of the orders, the quasi-judicial authority must pass speaking orders so as to stand the test of scrutiny.</i>
18.	<b><i>Dalpat Kumar v. Prahlad Singh and Ors AIR 1993 SC 276</i></b> <i>While considering the question of balance of convenience observed that the court while exercising discretion in granting or refusing injunction should exercise sound judicial discretion and should attempt to weigh substantial mischief or injury likely to be caused to the parties, and in the case of refusal of injunction should compare it with that which is likely to be caused to the opposite party, if the injunction is granted.</i>
19.	<b><i>Bharat Bank Ltd., Delhi and Ors. v. Employees of the Bharat Bank Ltd., Delhi and The Bharat Bank Employees' Union, Delhi. 1950 AIR 188</i></b> <i>A true judicial decision presupposes an existing dispute between two or more parties, and then involves four requisites:- (1) The presentation (not necessarily orally) of their case by the parties to the dispute; (2) if the dispute between them is a question of fact, the ascertainment of the fact by means of evidence adduced by the parties to the dispute and often with the assistance of argument by or on behalf of the parties on the evidence; (3) if the dispute between them is a question of law, the submission of legal argument by the parties, and (4) a decision which disposes of the whole matter by a finding upon the facts in dispute and application of the law of the land to the facts so found, including where required a ruling upon any disputed question of law. A quasi-judicial decision equally presupposes an existing dispute between two or more parties and involves (1) and (2), but does not necessarily involve (3) and never involves (4). The place of (4) is in fact taken by administrative action, the character of which is determined by the Minister's free choice.</i>
<b>SESSION- 4</b> <b>ROLE AND RESPONSIBILITIES OF DRT POST SARFAESI ACT</b> <b>&amp;</b> <b>SESSION- 5</b> <b>PROCEDURAL ISSUES AND CHALLENGES FACED BY</b> <b>DEBT RECOVERY TRIBUNALS</b>	
1.	Taxmann's SARFAESI & Debts Recovery Law Manual, <b><i>Appeal against order of DRT before DRAT</i></b> , Chapter-4, Taxmann Publications (P) Ltd. January 2023.
2.	Tripathi, Shivnath, <b><i>Debt Recovery Tribunal Vis a Vis Civil Court (April 17, 2013)</i></b> . Available at SSRN: <a href="https://ssrn.com/abstract=2281384">https://ssrn.com/abstract=2281384</a> or <a href="http://dx.doi.org/10.2139/ssrn.2281384">http://dx.doi.org/10.2139/ssrn.2281384</a>
3.	Manasi Phadnis and N. Prabhala, <b><i>Debt Recovery Tribunals in India: A Short Note</i></b> , CAFRAL (March 2015)
<u><b>Case Law</b></u> <i>(Judgments Mentioned Below Include Citations And Short Notes For Reference. Please Refer Full Judgment (Available In Pen Drive) For Conclusive Opinion)</i>	
1.	<b><i>Central Bank of India &amp; Anr. v. Smt. Prabha Jain &amp; Ors 2025 INSC 95</i></b> <i>The Supreme Court noted that the Debt Recovery Tribunal (DRT) is not authorized under the</i>

	<p><i>SARFAESI Act to "hand over" possession of the secured asset to an individual who was neither the borrower nor the possessor of the asset. It further stated that the DRT lacks the authority to "restore" possession of secured assets to an individual who is neither the borrower nor in possession of the assets.</i></p>
2.	<p><b><i>Sanjay Sharma v. Kotak Mahindra Bank Ltd. CIVIL APPEAL NO. /2024 (@SLP (C) No. 330/2017)</i></b></p> <p><i>The Supreme Court has stated that the right of a borrower to redeem the secured asset can be exercised only till a notice for the sale of the mortgaged property is published in terms of Rule 9(1) of the Security Interest (Enforcement) Rules, 2002.</i></p> <p><i>The Court observed that till the 2016 amendment to the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), the borrower had the right to redeem the mortgaged property till the sale or transfer of such secured asset. However, after the amendment to Section 13(8) of the SARFAESI Act, the right of redemption can be exercised only till the publication of sale notice.</i></p>
3.	<p><b><i>Celir LLP v. Ms Sumati Prasad Bafna and others, 2024 INSC 978</i></b></p> <p><i>The Supreme Court recently explained the circumstances under which a sale of property by auction or other means under the SARFAESI Act can be set-aside after its confirmation. The Court held that mere procedural irregularities or deviation from rules are not grounds to set aside a confirmed sale unless such errors are fundamental in nature, such as fraud, collusion, inadequate pricing or underbidding.</i></p>
4.	<p><b><i>M/s Sidha Neelkanth Paper Industries Private Limited &amp; Another versus Prudent ARC Limited &amp; Others CIVIL APPEAL NO. 8969 OF 2022; JANUARY 05, 2023</i></b></p> <p><i>SARFAESI Act, 2002 ; Section 13(2), 13(4), 18 - Recovery of Debts and Bankruptcy Act, 1993 ; Section 2(g) - Whatever amount is mentioned in the notice under Section 13(2) of the SARFAESI Act, in case steps taken under Section 13(2)/13(4) against the secured assets are under challenge before the DRT will be the 'debt due' within the meaning of proviso to Section 18 of the SARFAESI Act - In case of challenge to the sale of the secured assets, the amount mentioned in the sale certificate will have to be considered while determining the amount of pre-deposit under Section 18 of the SARFAESI Act - In a case where both are under challenge, namely, steps taken under Section 13(4) against the secured assets and also the auction sale of the secured assets, in that case, the "debt due" shall mean any liability (inclusive of interest) which is claimed as due from any person, whichever is higher -The borrower can take the benefit of the amount received by the creditor in an auction sale only if he unequivocally accepts the sale. In a case where the borrower also challenges the auction sale and does not accept the same and also challenges the steps taken under Section 13(2)/13(4) of the SARFAESI Act with respect to secured assets, the borrower has to deposit 50% of the amount claimed by the secured creditor along with interest. (Para 13-16)</i></p>
5.	<p><b><i>K Sreedhar v. Raus Constructions Pvt. Ltd., 2023 SCC OnLine SC 13</i></b></p> <p><i>The Court held that only when the secured property was put to use as agricultural land or when secured property was not used as a security by way of mortgage, can be exempted under the provisions of the SARFAESI Act under Section 31(i). Accordingly, held that the High Court had committed an error in applying Section 31(i) of the SARFAESI Act. The Apex Court opined that instead of shifting the burden of proof on the secured creditor to prove that the secured property was not agricultural property, the Telangana High Court should</i></p>

	<i>have laid down the burden of proof on the borrowers.</i>
6.	<b><i>Kotak Mahindra Bank Limited v. Girnar Corrugators Pvt. Ltd, 2023 SCC OnLine SC 15,</i></b> <i>The Court considered the provisions of Section 15 to 23 read with Section 24 of the MSMED Act and the provisions of SARFAESI Act and stated that there is no repugnancy between the two enactments and no conflict between the specific subject of 'priority' . It, hence, upheld the subsequent enactment of law with non-obstante clause in SARFAESI Act over MSMED Act.</i>
7.	<b><i>Tahsildar, Kollam v. Nizamudeen S., 2023 SCC OnLine Ker 150</i></b> <i>Held that a secured creditor under Section 26E of the SARFAESI Act and Section 31B of the RDB Act obtains priority over the right claimed by the Revenue, both in proceeding against the properties in question, or in recovering the secured debt.</i>
8.	<b><i>Joji Mathew v. South Indian Bank, 2022 SCC OnLine Ker 9160</i></b> <i>The Court assented to the fact that the present application was beyond the scope of a petition under Article 226 of the Constitution of India. The Court left it over to the petitioner to establish before the DRT, in case the sale conducted by the Bank is violative of the provisions of the Security Interest Enforcement Rules.</i>
9.	<b><i>Anurag v. Bank of India, 2022 SCC OnLine Bom 1160</i></b> <i>The purpose of depriving or regulating the right of a person to travel abroad, it is necessary to have a procedure established by law enacted by a competent Legislature in the said act or by way of independent legislation which is absent herein. In view of the above, the Debt Recovery Tribunal had no power to restrain a person from travelling abroad in the absence of specific powers to that effect.</i>
10.	<b><i>Bank of Baroda v. Karwa Trading Company, (2022) 5 SCC 168</i></b> <i>By paying the highest bid amount / reserve price, the borrower cannot be discharged of its liability of the outstanding due to be paid to the bank - Unless and until he was ready to deposit / pay the entire amount payable together with all costs and expenses with the secured creditor, the borrower cannot be discharged from the entire liability outstanding</i>
11.	<b><i>Tajunissa and another v. Vishal Sharma and others, 2022 SCC OnLine Del 18 and Ritu Gupta &amp; Another v. Usha Dhand and others, 2014 SCC OnLine Del 6506,</i></b> <i>When legality of the title deeds forming the basis of equitable mortgage are themselves questionable would require evidence to be led by the parties and therefore, such case falls within the limited exception carved out by the Mardia Chemicals case.</i>
12.	<b><i>Leelamma Mathew v. Indian Overseas Bank, 2022 SCC OnLine SC 1601</i></b> <i>The Court, while referring to Rule 8 of the 2002 SARFAESI Rules, said that as per this Rule, before effecting sale of the immovable property the authorised officer shall obtain valuation of the property from an approved valuer and fix the reserve price of the property and may sell the whole or any part of such immovable secured asset. Further, as per Section 54 of the Transfer of Property Act the seller was bound to disclose to any buyer any material defect in the property of which the buyer is not aware and which the buyer could not ordinarily discover.</i>

13.	<b><i>Indian Overseas Bank v. RCM Infrastructure Ltd (2022) 8 SCC 516</i></b> <i>Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 - After the CIRP is initiated, all actions including any action under the SARFAESI Act to foreclose, recover or enforce any security interest are prohibited.</i>
14.	<b><i>Union Bank of India v. Rajasthan Real Estate Regulatory Authority, Civil Writ Petition No. 13688/2021 &amp; 69 other connected Writ Petitions, ; Date : 14-02-2022</i></b> <i>RERA authority has the jurisdiction to entertain a complaint by an aggrieved person against the bank as a secured creditor if the bank takes recourse to any of the provisions contained in Section 13(4) of the SARFAESI Act - This shall be applicable in a case where proceedings before the RERA authority are initiated by the home buyers to protect their rights.</i>
15.	<b><i>Punjab National Bank v. Union of India, (2022) 7 SCC 260</i></b> <i>Provisions contained in the SARFAESI Act, 2002 will have an overriding effect on the provisions of the Central Excise Act of 1944 - secured creditor will have priority over the dues of the Central Excise Department. (Para 43, 44, 47)</i>
16.	<b><i>Asset Reconstruction Co. v. Chief Controlling Revenue Authority, 2022 (6) SCALE 657</i></b> <i>The High Court overlooked the fact that there was no independent instrument of PoA and that in any case, the power of sale of a secured asset flowed out of the provisions of the Securitisation Act, 2002 and not out of an independent instrument of PoA. Section 2(zd) of the Securitisation Act, 2002 defines a 'secured creditor' to mean and include an Asset Reconstruction Company. The appellant has acquired the financial assets of OBC in terms of Section 5(1)(b) of the Securitisation Act, 2002. Therefore, under subsection (2) of Section 5 of the Securitisation Act, 2002, the appellant shall be deemed to be the lender and all the rights of the Bank vested in them.</i>
17.	<b><i>Phoenix ARC v. Vishwa Bharati Vidya Mandir, (2022) 5 SCC 345</i></b> <i>A writ petition against the private financial institution – ARC – against the proposed action/actions under Section 13(4) of the SARFAESI Act can be said to be not maintainable - The ARC as such cannot be said to be performing public functions which are normally expected to be performed by the State authorities. During the course of a commercial transaction and under the contract, the bank/ARC lent the money to the borrowers herein and therefore the said activity of the bank/ARC cannot be said to be as performing a public function which is normally expected to be performed by the State authorities. If proceedings are initiated under the SARFAESI Act and/or any proposed action is to be taken and the borrower is aggrieved by any of the actions of the private bank/bank/ARC, borrower has to avail the remedy under the SARFAESI Act and no writ petition would lie and/or is maintainable and/or entertainable.</i>
18.	<b><i>NKGSB Cooperative Bank Ltd. v. Subir Chakravarty, (2022) 10 SCC 286</i></b> <i>Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 - Section 14 - Taking of possession of the secured assets and documents relating thereto and to forward the same to the secured creditor at the earliest opportunity is a ministerial act.</i>
19.	<b><i>R.D. Jain and Co. v. Capital First Ltd., 2022 SCC OnLine 921, AIR 2022 SC 4820</i></b> <i>Step to be taken by the CMM/DM under Section 14 is a ministerial step. While disposing of the application under Section 14 of the SARFAESI Act, no element of quasi-judicial function</i>



	<p><i>or application of mind would require -The Magistrate has to adjudicate and decide the correctness of the information given in the application and nothing more. Therefore, Section 14 does not involve an adjudicatory process qua points raised by the borrower against the secured creditor taking possession of secured assets.</i></p>
20.	<p><b>Bank of Baroda v. Parasaadilal Tursiram Sheetgrah Pvt. Ltd., 671, AIR 2022 SC 380</b>  <i>The reason for providing a time limit of 45 days for filing an application under Section 17 can easily be inferred from the purpose and object of the enactment – SARFAESI Act is enacted for quick enforcement of the security.</i></p>
21.	<p><b>Asset Reconstruction Co. (India) Ltd v. Chief Controlling Revenue Authority, 2022 SCC OnLine SC 515</b>  <i>The Supreme Court was, however, of the opinion that the High Court overlooked the fact that there was no independent instrument of PoA and that in any case, the power of sale of a secured asset flowed out of the provisions of the SARFAESI Act and not out of an independent instrument of PoA.</i>  <i>Section 2(zd) of the SARFAESI Act defines a ‘secured creditor’ to mean and include an Asset Reconstruction Company. The appellant had acquired the financial assets of OBC in terms of Section 5(1)(b) of the SARFAESI Act. Therefore, under sub-section (2) of Section 5 of the SARFAESI Act, the appellant shall be deemed to be the lender and all the rights of the Bank vested in them. In fact, under Amendment Act 44 of 2016, sub-section (1A) was inserted in Section 5 of the SARFAESI Act, exempting from stamp duty, any document executed by any bank 5 under Section 5(1) in favour of an Asset Reconstruction Company acquiring financial assets for the purposes of asset reconstruction or securitization.</i>  <i>It was further explained that for invoking Article 45(f), two conditions have to be satisfied. They are, The PoA should have been given for a consideration; and</i>  <i>An authorization to sell any immovable property should flow out of the instrument.</i>  <b><i>In the case on hand, the consideration paid by the appellant to OBC, was for the purpose of acquisition of the financial assets, in respect of a particular borrower. The draft of the PoA contained in Schedule 3 of the deed of assignment was only incidental to the deed of assignment.</i></b>  <i>The deed of assignment has already been charged to duty under Article 20(a) which deals with “conveyance”. In fact Article 45(f) also requires a PoA covered by the said provision to be chargeable to stamp duty under Article 20.</i>  <i>The Court, hence, held that after having accepted the deed of assignment as an instrument chargeable to duty as a conveyance under Article 20(a) and after having collected the duty payable on the same, it is not open to the respondent to subject the same instrument to duty once again under Article 45(f), merely because the appellant had the benefit of the notifications under Section 9(a).</i></p>
22.	<p><b>Jaipur Texweaving Park Ltd. V. Union of India and Ors. MANU/RH/0489/2022</b> Held, powers conferred upon High Court under article 226 of Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including five prerogative writs for enforcement of any of rights conferred by Part III or for any other purpose are very wide – No express limitation on exercise of that power but, at same time, we cannot be oblivious of rules of self-imposed restraint evolved by this Court, which every High Court is bound to keep in view - Rule of exhaustion of alternative remedy</p>

	<p><i>is rule of discretion and not one of compulsion - Stay of action initiated by State and/or its agencies for recovery of taxes, cess, fees, etc. seriously impedes execution of projects of public importance and disables them from discharging their constitutional and legal obligations towards citizens - In cases relating to recovery of dues of banks, financial institutions and secured creditors, stay granted by High Court would have serious adverse impact on financial health of such bodies, which ultimately prove detrimental to economy of nation - Therefore, High Court should be extremely careful and circumspect in exercising its discretion to grant stay in such matters</i></p> <p><i>– Of course, if petitioner is able to show that its case falls within any of exceptions then High Court may, after considering all relevant parameters and public interest, pass appropriate interim order.</i></p>
23.	<p><b><i>ITC Ltd. v. Blue Coast Hotels Ltd. (2018) 15 SCC 99</i></b></p> <p><i>Though the provision is mandatory, mere noncompliance of section 13 (3A) of SARFAESI Act cannot be of any avail to debtor whose conduct has not been merely to seek time and not repay loan as promised on several occasions.</i></p> <p><i>Affirmed and applied in Arce Polymers v. Alpine Pharmaceuticals (2022) 2 SCC 221</i></p>
24.	<p><b><i>Electrosteel Castings Ltd. v. UV Asset Reconstruction Co. Ltd., (2022) 2 SCC 573</i></b></p> <p><i>Person aggrieved from measures under Section 13(4) should approach DRT and not High Court.</i></p>
25.	<p><b><i>State of Maharashtra v. Greatship (India) Ltd., 2022 SCC OnLine SC 1262</i></b></p> <p><i>High Court Can exercise power under Article 227, when courts and Tribunals acted in manner resulting in abuse of process of law, or where facts are so gross that irreparable injury would be caused.</i></p>
26.	<p><b><i>Aruna DTS Moorthy v. UCO Bank, 2021 SCC OnLine Bom 1537</i></b></p> <p><i>Court expressed that the opportunity of hearing is an integral part of our constitutional philosophy and it is well embedded in Articles 14 and 21 of the Constitution of India. Since the Registrar of the Debts Recovery Tribunal failed to perform his duty in the matter, therefore, the order passed by him denying the hearing would have to be held as illegal.</i></p>
27.	<p><b><i>Asst. General Manager v. Registrar, 2021 SCC OnLine Mad 4904</i></b></p> <p><i>The Presiding Officer of Debts Recovery Tribunals should be vigilant that matters are taken up chronologically. There appears to be a quality in Indian climatic conditions where certain matters tend to disappear from view. Surely the malaise can be adequately addressed by a specialized body, better funded by the Union and obviously instructed by the latest technology.</i></p>
28.	<p><b><i>Hemraj Ratnakar Salian v. HDFC Bank Limited, 2021 SCC OnLine SC 611, Rent Act</i></b></p> <p><i>would not come to the aid of a “tenant--in--sufferance” vis--à--vis SARFAESI Act due to operation of S. 13(2) read with S. 13(13) of SARFAESI Act</i></p>
29.	<p><b><i>Avneesh Chandan Gadgil v. Oriental Bank of Commerce, 2021 SCC OnLine SC 1117</i></b></p> <p><i>The delay in filing appeal before Debt Recovery Tribunal against the order passed by the Recovery Officer cannot be condoned by invoking Section 5 of the Limitation Act.</i></p>

30.	<p><b><i>Kotak Mahindra Bank (P) Ltd. v. Ambuj A. Kasliwal, (2021) 3 SCC 549</i></b>  <i>Pre-deposit is a mandatory. It cannot be waived High Court below statutory limit.</i></p>
31.	<p><b><i>Lalit Kumar Jain v. Union of India, (2021) 9 SCC 321</i></b>  <i>The court held that time and again an involuntary act of the principal debtor has led to the loss of security, and the same would not absolve a guarantor of its liability.</i></p>
32.	<p><b><i>Dr Abdul Rasheed v. IFCI Limited, 2020 SCC OnLine Ker 8293</i></b>  <i>Loans by financial institutions are granted from public money generated at the tax payers expense. Such loan does not become the property of the person taking the loan, but retains its character of public money given in a fiduciary capacity as entrustment by the public. Timely repayment also ensures liquidity to facilitate loan to another in need, by circulation of the money and cannot be permitted to be blocked by frivolous litigation by those who can afford the luxury of the same.</i></p>
33.	<p><b><i>Standard Chartered Bank v. MSTC Ltd., (2020) 13 SCC 618</i></b>  <i>Section 5 of the Limitation Act and its provision to condone delay by Debts Recovery Tribunal u/s 24 of RDB Act apply only to review petitions and not to the original applications filed under Section 19 of RDB Act and not to review petitions.</i></p>
34.	<p><b><i>K. Virupaksha v. State of Karnataka, (2020) 4 SCC 440</i></b>  <i>Entertaining the complaint and allowing the investigation to continue, would amount to permitting the jurisdictional police to redo the process which would be in the nature of reviewing the order passed by the Single Judge and the Division Bench in the writ proceedings by the High Court and the orders passed by the competent Court under the SARFAESI Act which was neither desirable nor permissible and the banking system could not be allowed to be held to ransom by such intimidation.</i></p>
35.	<p><b><i>Union Bank of India v. Rajat Infrastructure (P) Ltd., (2020) 3 SCC 770</i></b>  <i>The Court, while relying on the case of Narayan Chandra Ghosh vs. UCO Bank &amp; Ors., held that DRAT Cannot Entertain An Appeal U/s 18 SARFAESI Act Without Insisting On Pre-Deposit.</i>  <i>On the Contention of Respondent that he is not a borrower, the court held that a guarantor or a mortgagor, who has mortgaged its property to secure the repayment of the loan, stands on the same footing as a borrower and if he wants to file an appeal, he must comply with the terms of Section 18 of the SARFAESI Act.</i></p>
36.	<p><b><i>Travancore Devaswom Board v. Deputy Examiner, Local Fund Audit, 2020 SCC OnLine Ker 1766</i></b>  <i>The provisions of SARFAESI Act and RDB Act (Section 26E of the SARFAESI Act and of Section 31B of the RDB Act) containing provisions commencing with non-obstante clauses and giving specific priority to secured creditors even over the taxes due from the Governments, will prevail over the Kerala Value Added Tax Act, 2003.</i>  <i>A secured creditor in whose favour a security interest has been created thus has priority in sale and payment over all other statutory charge holders.</i></p>

37.	<p><b><i>L &amp; T Housing Finance Limited v. State of Maharashtra, 2020 SCC OnLine Bom 1088</i></b>  <i>In discharge of duty under Section 14 of the SARFAESI Act, neither the Collector nor an Officer authorized by the Collector to take possession of his secured asset, can require the applicant to deposit any processing fee/administrative fee/Setu fee/costs.</i></p>
38.	<p><b><i>Pandurang Ganpati Chaugule v. Vishwasrao Patil Murgud Sahakari Bank Ltd., (2020) 9 SCC 215</i></b>  <i>The co-operative banks under the State legislation and multi--state co-operative banks are 'banks' under section 2(1)(c) of SARFAESI. The recovery is an essential part of banking; as such, the recovery procedure prescribed under section 13 of the SARFAESI Act, is applicable. The Parliament has legislative competence under Entry 45 of List I of the Seventh Schedule of the Constitution of India to provide additional procedures for recovery under section 13 of the SARFAESI with respect to co- operative banks. The provisions of Section 2(1)(c)(iva), of SARFAESI, adding 'a multi--state co-operative bank' is not ultra vires. Cooperative banks have to act under Banking Regulation Act with respect to banking business.</i></p>
39.	<p><b><i>Sanjeev Tiwari v. State of Uttarakhand, 2020 SCC OnLine Utt 248</i></b>  <i>The Bank was taking recourse to S. 13 SARFAESI Act for the recovery of outstanding dues. If the measures were wrong and the company was aggrieved definitely, recourse to Section 17 of the SARFAESI Act could have been taken. Criminal prosecution cannot be allowed to be launched in such cases. Appl. u/s156 (3) does not disclose any cognizable offence. It appears to have been moved by the petitioner to pressurize the Bank so that they may, under fear of criminal prosecution, settle the Case with the petitioner on his terms.</i></p>
40.	<p><b><i>Hindon Forge (P) Ltd. v. State of U.P., (2019) 2 SCC 198</i></b>  <i>Application under Section 17(1) maintainable even before taking physical possession, i.e., even at the stage of constructive or symbolic possession.</i></p>
41.	<p><b><i>Bजारंग श्यामसुंदर आगरवाल व. केंद्रीय बैंक ऑफ इंडिया, (2019) 9 SCC 94</i></b>  <i>It was held that if a valid tenancy under law is in existence even prior to the creation of the mortgage, such tenant's possession cannot be disturbed by the secured creditor by taking possession of the property. If a tenancy under law comes into existence after the creation of a mortgage but prior to issuance of a notice under Section 13(2) of the SARFAESI Act, it has to satisfy the conditions of Section 65A of the Transfer of Property Act, 1882. If a tenant claims that he is entitled to possession of a Secured Asset for a term of more than a year, it has to be supported by the execution of a registered instrument. In the said decision of this Court, it was clarified that in the absence of a registered instrument, if the tenant only relies upon an unregistered instrument or an oral agreement accompanied by delivery of possession, the tenant is not entitled to possession of the secured asset for more than the period prescribed under the provisions of the Transfer of Property Act.</i></p>
42.	<p><b><i>Jignesh Shah v. Union of India, (2019) 10 SCC 750</i></b>  <i>The Supreme Court laid down the law on the applicability of Article 137 of the Limitation Act, 1963 upon transfer of winding up petitions to the National Company Law Tribunal (NCLT) under the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 during the pendency of a civil suit. Authored by Nariman J., the judgment overturned the order of the National Company Law Appellate Tribunal (NCLAT) and held that the cause of action to initiate winding up proceedings would arise on the day of the default, and that</i></p>

	<i>the limitation period would start running on the same date. A civil suit filed in this period would have no effect on extending the cause of action.</i>
43.	<b><i>Bank of India v. Multi Arc Coating and Straps Limited, 2020 SCC OnLine NCLAT 914</i></b> <i>Mere pendency of application before DRT would not save limitation period as there is no bar in filing application under insolvency code even if DRT/SARFAESI proceedings are pending</i>
44.	<b><i>Punjab National Bank v. Carnation Auto India Pvt. Ltd., 2019 SCC OnLine NCLAT 879</i></b> <i>Pendency of proceedings before DRT and initiation of action under SARFAESI Act cannot be ground for rejection of an application to initiate Insolvency Resolution process.</i>
45.	<b><i>Encore Asset Reconstruction Company Pvt. Ltd. v. Charu Sandeep Desai, 2019 SCC OnLine NCLAT 284</i></b> <i>'SARFAESI Act, 2002' being an existing law, Section 238 of the 'I&amp;B Code' will prevail over any of the provisions of the 'SARFAESI Act, 2002' if it is inconsistent with any of the provisions of the 'I&amp;B Code'.</i>
46.	<b><i>Swiss Ribbons Pvt. Ltd. &amp; Anr. v. UOI&amp;Ors (2019) 4 SCC OnLine SC 17</i></b> <i>dealing with the constitutional challenge against Section 12A, which deals with withdrawal of application of Corporate Insolvency Resolution Process ("CIRP") filed by the creditor, the Court held that once a proceeding is initiated against the CD, the proceeding becomes in rem i.e a collective proceeding and cannot be withdrawn individually. Hence, consent of 90% of the creditors has to be taken as per the law and if the Committee of Creditors ("COC") acted arbitrary, it can always be brought to the judicial scrutiny.</i> <i>The Supreme Court also upheld the constitution validity of Section 53 of the Code on the ground that it creates an intelligible differential between financial debts and operational debts as repayment of financial debt infuses capital into the economy, which can be further used for lending.</i>
47.	<b><i>Gaurav Hargovindbhai Dave Vs Asset Reconstruction Company (India) Ltd. &amp; Anr. ( 2019) SCC OnLine SC 1239</i></b> <i>The Supreme Court in this case examined period of limitation applicable for a petition filed under Section 7 of the Code for initiation of CIRP and observed as follows:</i>
48.	<b><i>Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta &amp; Ors. (2019) SCC OnLine SC 1478</i></b> <i>"Indeed, if an "equality for all" approach recognising the rights of different classes of creditors as part of an insolvency resolution process is adopted, secured financial creditors will, in many cases, be incentivised to vote for liquidation rather than resolution, as they would has better rights if the corporate debtor was to be liquidated rather than a resolution plan being approved. This would defeat the entire objective of the Code which is to first ensure that resolution of distressed assets takes place and only if the same is not possible should liquidation follow."</i>
49.	<b><i>SBI v. V. Ramakrishnan, (2018) 17 SCC 394</i></b> <i>Wherein it was held that a contract of guarantee is specifically kept out of a moratorium under Section 14 of the Code against the liabilities of the corporate debtor. Keeping in view Section 31 of the Code, coupled with a guarantor's obligation under Section 133 of the Indian Contract Act 1972, the aim was to ensure that a guarantor is not relieved from making payments even if the debt is varied under the resolution plan as the resolution plan is binding</i>

	<i>on the guarantor as well.</i>
50.	<b>Rajanala Kusuma Kumari v. State of Telangana, 2018 SCC OnLine Hyd 33</b> <i>Tribunal cannot decide issue requiring a full-fledged trial- Civil Court is the proper forum.</i>
51.	<b>State Bank of Travancore v. Mathew K.C., (2018) 3 SCC 85</b> <i>High Court should not stay possession under section 13(4) as statutory remedy of appeal is available.</i>
52.	<b>Haravtar Singh Arora v. Debt. Recovery Appellate Tribunal, 2018 SCC OnLine P&amp;H 1020</b> <i>Nothing precludes the petitioner to move an application before NCLT and make out a case that such proceedings pending are liable to be kept in abeyance till the decision of the appeal by the DRAT.</i>
53.	<b>G.R. Gopinath v. Syndicate Bank, 2018 SCC OnLine Kar 1731</b> <i>The amendment to section 21 in 2006 is procedural and provisions of pre-deposit would apply to all applications filed before DRAT after amendment, even if the original proceedings commenced before amendment.</i>
54.	<b>Miditech Private Limited, In re, 2018 SCC OnLine NCLT 783</b> <i>Application for resolution process with NCLT can be made even if proceedings are pending in DRT</i>
55.	<b>Innoventive Industries Ltd. v. ICICI Bank, (2018) 1 SCC 407</b> <i>The Supreme Court held that the commercial wisdom of the Committee of Creditors is sacrosanct and not subject to judicial review. The Supreme Court held that the commercial wisdom of the Committee of Creditors has been given paramount status without any judicial intervention, for ensuring completion of the stated processes within the timelines prescribed by the IBC.</i>
56.	<b>Mobilox Innovations (P) Ltd. v. Kirusa Software (P) Ltd., (2018) 1 SCC 353</b> <i>The Court held that the claim of corporate debtor that there existed a dispute in relation to breach of Non Disclosure Agreement is sufficient to refuse entertainment of the insolvency application by the operational debtor</i>
57.	<b>State Bank of Patiala v. Mukesh Jain and Anr, (2017) 15 SCC 53</b> <i>The court held that the Debt Recovery Tribunal (DRT) has jurisdiction to entertain an appeal as per Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, even if the amount involved is less than Rs 10 lakh.</i>
58.	<b>Dr. Dipankar Chakraborty v. Allahabad Bank, 2017 SCC OnLine Cal 8742</b> <i>The court held that the rights under these two statutes are independent of each other. Relief can be sought under both statutes parallel to each other, subject to the law of limitation. Since enforcement of security interests tantamount to proceedings for mortgage, under the Limitation Act 1963, the limitation period for invocation of proceedings under SARFAESI Act is 12 years – same as that of mortgage proceedings. <i>Approved in Jignesh Shah v. Union of India, (2019) 10 SCC 750</i></i>

59.	<p><b><i>International Asset Reconstruction Co. of India Ltd. v. Official Liquidator, (2017) 16 SCC 137</i></b></p> <p><i>It was held that the prescribed period of 30 days under Section 30(1) of the Recovery of Debts and Bankruptcy (RDB) Act, 1993, for preferring an appeal against the order of the recovery officer cannot be condoned by application of Section 5 of the Limitation Act.</i></p>
60.	<p><b><i>International Asset Reconstruction Co. of India Ltd. v. Official Liquidator, (2017) 16 SCC 137</i></b></p> <p><i>The time limit of 30 days for filing appeal cannot be extended by using Section 5 of Limitation Act as RDB Act is a special Act</i></p>
61.	<p><b><i>Baleshwar Dayal Jaiswal v. Bank of India, (2016) 1 SCC 444</i></b></p> <p><i>S. 18(2) — Power of Appellate Tribunal under, to condone delay in filing appeal beyond prescribed period of limitation: Delay in filing an appeal under S. 18(1) of 2002 Act can be condoned by Appellate Tribunal under S. 18(2) of 2002 Act r/w proviso to S. 20(3) of 1993 Act.</i></p>
62.	<p><b><i>Authorized Officer v. Dilipbhai Jayantilal Sanghavi, 2016 SCC OnLine Guj 2976</i></b></p> <p><i>Any transaction by way of sale, lease or otherwise with respect to secured assets referred to in notice under section 13(2) of SARFAESI Act is void.</i></p>
63.	<p><b><i>T.R. Bhuvaneshwari v. Punjab National Bank, 2016 SCC OnLine Mad 33658</i></b></p> <p><i>Secured creditor is entitled to stand outside the insolvency proceedings, in which event he would be entitled to realise his dues by the sale of the secured asset.</i></p>
64.	<p><b><i>Kumar Aluminium Ltd. v. Asset Reconstruction Co. India Ltd., (2016) 9 SCC 361</i></b> Amount deposited for maintaining appeal before Debts Recovery Appellate Tribunal (DRAT) against order of DRT, is not secured asset to be adjusted towards liability of borrower. Said pre-deposit is liable to be returned to appellant borrower on disposal of appeal, either on merits or otherwise, unless, with consent of depositors, Appellate Tribunal has already appropriated/adjusted said pre-deposit towards liability of borrower.</p> <p><i>Relied on Axis Bank v. SBS Organics (P) Ltd., (2016) 12 SCC 18</i></p>
65.	<p><b><i>Axis Bank v. SBS Organics (P) Ltd., (2016) 12 SCC 18</i></b></p> <p><i>Bank has no lien on the pre-deposit made under section 21 RDB Act, in terms of section 171 of the contract act</i></p>
66.	<p><b><i>Kotak Mahindra Bank Ltd. v. Kothari Industrial Corporation Ltd., 2015 SCC OnLine Mad 7087</i></b></p> <p><i>No authority under SARFAESI Act or any other law, permits the DRT to take up the issue on its own motion, despite the order passed by the superior court, i.e., The Division Bench of the High Court.</i></p>
67.	<p><b><i>Jagdish Singh v. Heeralal, (2014) 1 SCC 479</i></b></p> <p><i>The expression 'any person' referred to in Section 17 would take in the Plaintiffs in the suit as well. It was further observed that irrespective of the question whether the civil suit is maintainable or not, under the SARFAESI Act itself, a remedy is provided to such persons so that they can invoke the provisions of Section 17 of the SARFAESI Act, in case the bank (secured creditor) adopts any measure including the sale of the secured assets, on which the Plaintiffs claim interest. The court concluded that the civil court jurisdiction is completely</i></p>

	<p><i>barred, so far as the "measure" taken by a secured creditor under Sub-section (4) of Section 13 of the SARFAESI Act is concerned.</i></p> <p><i>The aforesaid judgment has been followed by the Hon'ble Supreme Court Sree Anandhakumar Mills Ltd. v. Indian Overseas Bank, (2019) 14 SCC 788</i></p>
68.	<p><b><i>Inderjeet Arya v. ICICI Bank Ltd. (2014) 2 SCC 229</i></b></p> <p><i>Proceedings before DRT is not a suit.</i></p>
69.	<p><b><i>Mathew Varghese v. M. Amritha Kumar, (2014) 5 SCC 610</i></b></p> <p><i>It was held that application of other laws, including RD Act, is not barred when provisions are not consistent with SARFAESI Act. Thus, application of RDB Act will be in addition to SARFAESI Act.</i></p>
70.	<p><b><i>T.P. Vishnu Kumar v. Canara Bank &amp; Ors. , 2013 10 SCC 652</i></b></p> <p><i>The court held that powers of the High Court under Article 2261 of the Constitution of India cannot be invoked in the matter of recovery of dues under the Recovery of Debts Due to Banks and Financial Institutions Act 1993 (the 1993 Act) unless there is any statutory violation resulting in prejudice to the party or where proceedings under the Act are wholly arbitrary, unreasonable and unfair.</i></p>
71.	<p><b><i>Standard Chartered Bank v. Noble Kumar (2013) 9 SCC 620</i></b></p> <p><i>It is not mandatory that bank should first try to take possession under Section 13(4) of SARFAESI Act prior to approaching Magistrate. Bank can directly approach Magistrate.</i></p>
72.	<p><b><i>Bank of Maharashtra v. Pandurang Keshav Gorwadkar (2013) 7 SCC 754</i></b></p> <p><i>DRT is not empowered to adjudicate/ determine dues of workmen of debtor company. Once the company is under winding up, the only competent authority to determine workmen's dues and quantify workmen's portion is liquidator under supervision of Company Court alone and no other authority.</i></p>
73.	<p><b><i>Standard Chartered Bank v. Dharminder Bhohi (2013) 122 SCL 155</i></b></p> <p><i>DRT and DRAT have been given overriding powers. They should ensure that matters are not delayed and quick actions are taken.</i></p>
74.	<p><b><i>HDFC Bank Limited v. Gee Kay International, 2012 SCC OnLine P&amp;H 11062</i></b></p> <p><i>The plaintiff sought the case to fall within the limited exception carved out by the Hon'ble Supreme Court in Mardia Chemicals case. The application under Order VII Rule 11 of CPC for rejection of plaint filed by HDFC Bank was dismissed by the trial court. While setting aside the order of the trial court, the Hon'ble High Court relied on Section 18 of the RDB Act and Section 34 of the SARFAESI Act. Pertinently, the Hon'ble Supreme Court by way of an SLP did not find any fault with the conclusion arrived at by the High Court and directed DRT to give proper and adequate opportunity to Gee Kay International to prove the defence of fraud and forgery.</i></p>
75.	<p><b><i>Kanaiyalal Lalchand Sachdev v. State of Maharashtra &amp; Ors. 2011 2 SCC 782</i></b></p> <p><i>The court held that DRT can not only set aside the action of the secured creditor but even restore the status quo ante.</i></p>
76.	<p><b><i>V. Thulasi v. Indian Overseas Bank, 2011 SCC OnLine Mad 670</i></b></p> <p><i>There is no force in the contention that the DRT is not vested with the power to inquire into the issues concerning the creation of security. It was also observed that the remedy available</i></p>



	<p><i>under Section 17 is not illusory. The right to move an application under Section 17 of the SARFAESI Act accrues to any person aggrieved by any of the measures taken under Section 13(4). The expression 'evidence produced by the parties' occurring in Section 17(3) would include evidence produced by the party, though he may be a person other than the borrower.</i></p>
77.	<p><b><i>Bank of Baroda v. Gopal Shriram Panda Civil Revision Application NO.29/2011</i></b>  <i>Jurisdiction of the Debts Recovery Tribunal, to decide all matters relating to Sections 13 and 17 of the SARFAESI Act, is exclusive.</i></p> <ul style="list-style-type: none"> <li>- <i>In all cases, where the title to the property, in respect of which a 'security interest', has been created in favour of the Bank or Financial Institution, stands in the name of the borrower and/or guarantor, and the borrower has availed the financial assistance, it would be only the DRT which would have exclusive jurisdiction to try such matters, to the total exclusion of the Civil Court. Any pleas as raised by the borrowers or guarantors, vis-a-vis the security interest, will have to be determined by the DRT.</i></li> <li>- <i>The jurisdiction of the Civil Court to decide all the matters of civil nature, excluding those to be tried by the Debts Recovery Tribunal under Sections 13 and 17 of the SARFAESI Act, in relation to enforcement of security interest of a secured creditor, is not barred by Section 34 of the SARFAESI Act.</i></li> <li>- <i>Where civil rights of persons other than the borrower(s) or guarantor (s) are involved, the Civil Court would have jurisdiction, that too, when it is prima facie apparent from the face of record that the relief claimed, is incapable of being decided by the DRT, under Section 17 of the DRT Act, 1993 read with Sections 13 and 17 of the CRA 29 of 2011.odt SARFAESI Act.</i> <ul style="list-style-type: none"> <li>□ <i>Even in cases where the enforcement of a security interest involves issues as indicated in Mardia Chemicals (supra) of fraud as established within the parameters laid down in A. Ayyasamy (supra); a claim of discharge by a guarantor under Sections 133 and 135 of the Contract Act [Mardia Chemicals (supra)]; a claim of discharge by a guarantor under Sections 139, 142 and 143 of the Contract Act; Marshaling under Section 56 of the Transfer of property Act [J.P. Builders (supra)]; the Civil Court shall have jurisdiction.</i></li> </ul> </li> </ul> <p><i>Examples as indicated above, are illustrative of the Civil Court's jurisdiction.</i></p>
78.	<p><b><i>ICICI Bank Ltd. v. APS Star Industries Ltd., (2010) 10 SCC 1</i></b>  <i>The Court held that an outstanding in the account of the borrower is a debt due and payable by the borrower to the bank and the bank is the owner of such debt. The bank can always transfer its assets and such transfer in no manner affects any right or interest of the borrower.</i></p>
79.	<p><b><i>Indira Devi v. Debt Recovery, 2010 SCC OnLine Del 2667</i></b>  <i>Writ petition filed challenging order passed by Debt Recovery Appellate Tribunal holding, DRT III not had territorial jurisdiction — Issue arose for determination whether appeal under Securitisation Act can only be filled where branch of the bank which gave loan was situated or could it be filed both in DRT having jurisdiction over branch of bank which gave loan or DRT where mortgaged property was situated — Held; Appeal could be filed in DRT having jurisdiction over bank branch which advanced credit facilities, where defendant resided or carried on business or whole or part of cause of action arose and also before DRT which had territorial jurisdiction over mortgaged property.</i></p>

80.	<p><b><i>State Bank of India v. Sharda Spuntex Pvt. Ltd., 2009 SCC OnLine Raj 4561</i></b>  <i>Transactions in derivatives, fall within the category of "business activity undertaken by the Bank" as they are covered by Section 6(1) of the Regulation Act. If the transaction in question gives rise to a claim by the Bank, of any liability, on the part of the Company, the Bank may certainly be able to invoke the provisions of DRT Act. Further held that what is expressly permitted by law, cannot be held to be opposed to public policy</i></p>
81.	<p><b><i>Central Bank of India v. State of Kerala, (2009) 4 SCC 94</i></b>  <i>Statutory first charge over property under any law will prevail over rights created in favour of secured creditors such as banks and other financial institutions.</i></p>
82.	<p><b><i>Nahar Industrial Enterprises Ltd. v. Hong Kong and Shanghai Banking Corpn., (2009) 8 SCC 646</i></b>  <i>The difference between civil courts and the DRT was observed at length.</i></p>
83.	<p><b><i>Lakshmi Shankar Mills (P) Ltd. v. Authorised Officer/Chief Manager, Indian Bank, 2008 SCC OnLine Mad 279</i></b>  <i>The scope of enquiry under Section 17 of the SARFAESI Act has been dealt All such grounds, which rendered the action of the bank/financial institution illegal, can be raised in the proceedings under Section 17 of the Securitisation Act before the Debt Recovery Tribunal. It is for the Debt Recovery Tribunal to decide in each case whether the action of the bank/financial institution was in accordance with the provisions of the said Act and legally sustainable.</i></p>
84.	<p><b><i>Transcore v. UOI (2008) 1 SCC 125</i></b>  <i>Withdrawal of suit pending before DRT under DRT Act, 1993 is not a pre-condition for taking recourse to the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is an additional remedy, which is not inconsistent with DRT Act, 1993 and, therefore, doctrine of election has no application.</i></p>
85.	<p><b><i>Tensile Steel Ltd. V. Punjab and Sind Bank (2007) 79 SCL 570 ( Guj HC)</i></b>  <i>Section 19 (1) of the RDB Act is only enabling provision. Creditor can proceed under Securitisation Act without first withdrawing application pending with Tribunal- same view was taken in <i>Bhishma N Thakore v. Dena Bank (2007) 80 SCL 44 (Guj HC )</i></i></p>
86.	<p><b><i>Sundaram Home Finance Ltd v. Tahsilar, Hosur (2007) 78 SCL 21 ( Mad HC DB )</i></b>  <i>After issuing notice under section 13(2) of SARFAESI Act, it is not necessary to issue another notice under section 13 (4) of SARFAESI Act, before taking possession of security interest.</i></p>
87.	<p><b><i>Arun Kumar Arora v. UOI (2007) 74 SCL 237 (P &amp; H DB)</i></b>  <i>Secured creditor can take symbolic possession under section 13 (4) and not actual possession, so that application under section 17 does not become illusory or meaningless.</i></p>
88.	<p><b><i>A.Venkatramani v. LIC Housing Finance Ltd., 2006 SCC OnLine Mad 869</i></b>  <i>If a financial institution is covered under Securitization Act but not under RDB Act, it has to file civil suit. In such a case it is not necessary to withdraw civil suit before taking action under Section 13</i></p>
89.	<p><b><i>Kalyani Sales Co. v. UOI (2006) 70 SCL 177 (P &amp; H DB)</i></b></p>

	<i>It has been held that borrower or any other person in possession of immovable property cannot be physically dispossessed at the time of giving notice under section 13(4) of SARFAESI Act, so as to defeat adjudication of his representation or objection by DRT. It means that only symbolic possession can be taken.</i>
90.	<b><i>Digivision Electronics v. Indian Bank (2005) 63 SCL 714 ( Mad HC DB)</i></b> <i>Notice under section 13 (2) is really a show cause notice and writ petition at that stage is premature. Similar view was taken in <b>D Ravichandran v. Manager , Overseas Bank (2006) 72 SCL 10 ( Mad HC)</b></i>
91.	<b><i>Abdul Azeez v. Punjab National Bank, 2004 SCC OnLine Ker 198</i></b> <i>Remedy under Section 13 SARFAESI Act is additional remedy and bank can take action under section 13 even when matter is pending before civil court</i>
92.	<b><i>Ankit Carpets v. Bank of India 2002 AIR SCW 2487</i></b> <i>Defendants have 30 days' time to submit filing of written statements pursuant to show cause. No condition for depositing part amount can be imposed at least till 30 days are over.</i>
93.	<b><i>Carbeauti v. Karnata Bank Ltd. (2002) 112 Comp Cas 75 (Karn. HC)</i></b> <i>It was held that since counter claim is required to be decided as a cross suit, applicant seeking counter claim is required to pay requisite appeal fees. It is separate cause of action and is required to be filed within limitation.</i>
94.	<b><i>Kumar's Cotex v. DRT (2002) 40 SCL 16</i></b> <i>Section 19(20) provides that even interim order can be passed only after giving opportunity of hearing.</i>
95.	<b><i>Union of India &amp; Anr. Vs. Delhi High Court Bar Association &amp; Ors., (2002) 4 SCC 275.</i></b> <i>Constitutional Validity of RDDBFI Act, 1993 challenged on the ground of unreasonableness and it was also violative of Article 14 of the Constitution and that the same was beyond the legislative power of the Parliament.</i> <i>It was held that "While Article 323A &amp; 323B specifically enable the legislature to enact laws for the establishment of tribunals, in relation to the matter specified therein the power of the parliament to enact a law constituting a tribunal like a banking tribunal is not taken away."</i>
96.	<b><i>Anamika v. Debt Recovery Appellate Tribunal, 2000 SCC OnLine Kar 830</i></b> <i>It was held that once matter is transferred to DRT , appeal will be as per provisions of DRT Act only and appellant cannot claim that he continues to be governed by CPC. Thus appeal will be subject to condition of payment of 25 % amount</i>
97.	<b><i>S Ravichandran v. DRT (1999) 95 Comp Cas 825 ( Karn HC )</i></b> <i>Purpose of the Act is to ensure expeditious disposal. Long and liberal adjournments should not be granted. Otherwise the very purpose of the Act is defeated. Rules under CPC need not strictly be followed.</i>
98.	<b><i>Agarwal Tubes P. Ltd. v. Debt Recovery Tribunal, 1999 SCC OnLine Raj 469</i></b> <i>Petition against interlocutory order cannot be entertained under this Article 227</i>
99.	<b><i>Bank of India v. Baroda Cables Pvt. Ltd., 1997 SCC OnLine Guj 157</i></b> <i>Appeal can be filed against interim orders as well as final order of tribunal and hence writ petition will not be entertained, as alternate remedy is available.</i>

	<i>Same view was taken in S Ravichandran v. DRT (1999) 95 Comp Cas 825 ( Karn HC)</i>
100.	<b><i>State Bank of India v. Samneel Engineering Company, 1995 SCC OnLine Del 824</i></b> <i>The establishment of the Tribunal and vesting it with summary jurisdiction and providing for procedure consistent with the principles of natural justice only is sure to accelerate the recovery of debts. Provisions of the Act must, therefore receive an object oriented interpretation.</i>
101.	<b><i>State of T.N. v. Ramalinga Samigal Madam, (1985) 4 SCC 10</i></b> <i>The apex court enunciated on the factor whether the tribunal is solely empowered to entertain all kinds of issues arising out of the rights and liabilities given under the statute i.e., whether the tribunal is granted all the powers of the civil court.</i>
<b><u>Suggested Additional Reading (Citations for Reference)</u></b>	
<ol style="list-style-type: none"> <li>1. <i>Pithampur Steels Ltd. v. M/s Kotak Mahindra Bank Ltd. &amp; Anr., AIR 2013 M.P. 53</i></li> <li>2. <i>Bank of India v. Yadav Consultancy Services (P) Ltd., AIR 2018 SC 161</i></li> <li>3. <i>Kotak Mahindra Bank Limited v. Mr. A. Manohar Prasad, (Madras), 2022(6) CTC 206</i></li> <li>4. <i>State Bank of India v. Gujjar Mal Modi Hospital 1996 (1) BC 354</i></li> <li>5. <i>State Bank of India v. Sarathi Engineering Enterprises, I (1998) BC 622 (DB)</i></li> <li>6. <i>Jafar Ahamad Khan v. State of U.P., (Allahabad) DB, 2019 AIR CC 874</i></li> <li>7. <i>Saurabh Gupta v. Union of India, (Allahabad), 2018(2) All. LJ 630</i></li> <li>8. <i>Bank of Baroda v. Gopal Shriram Panda, 2021 (4) AIR Bom. R 64</i></li> <li>9. <i>Ravi Kant v. Debts Recovery Tribunal -III, Chandigarh, 2019 (1) D.R.T.C. 664</i></li> <li>10. <i>Dhoom Chand v. Chaman Lal Second Appeal No.527 of 1960: (AIR 1962 All 543</i></li> <li>11. <i>M/s Agro Indian Malt Pvt. Ltd v. Central Bank of India, 1997 (3) Bank L.J. 203</i></li> <li>12. <i>Bhalabh Dass v. State Bank of Bikaner and Jaipur, 1998 (2) Bank LJ 90.</i></li> <li>13. <i>Ashiq Hasan v. Sub Divisional Officer, Sadar Monghyr reported in. AIR 1965 Pat 446</i></li> <li>14. <i>Virinder Mayoo v. Bank of India 1997 I.S.J. Banking 12</i></li> <li>15. <i>Macherla Ravi Kumar and other v. Indian Bank Warangal Branch II (1998) BC 528</i></li> <li>16. <i>Oriental Bank of Commerce v. Sri Mohan Gupta, 1996 (62) DLT 229</i></li> <li>17. <i>Bank of India v. Vijay Ramniklal Kapadia &amp; Ors. 1997 (3) RCR (Civil) 502 (Guj)</i></li> <li>18. <i>M.C Mittal &amp; Ors. v. Central Bank of India &amp; Ors. 1996 (61) DLT 455</i></li> <li>19. <i>United Bank of India &amp; Ors. v. The Debts Recovery Tribunal &amp; Ors. 1999 AIR (SC) 1381</i></li> <li>20. <i>M/s J.U. Mansukhani &amp; Co. v. The Presiding Officer, 1999(4) RCR (Civil) 505 (Delhi)</i></li> <li>21. <i>Bank of India v. Union of India &amp; Another, AIR 2008 Pat. 68.</i></li> <li>22. <i>Rajiv Sachdeva v. State Bank of India and others, AIR 1999 Patna 41</i></li> <li>23. <i>Indian Bank v. M/s. Ponnachi Estate &amp; Ors. 2012(4) BC 358</i></li> </ol>	
<b><u>Additional Reading:</u></b>	
<ul style="list-style-type: none"> <li>• IMPORTANT JUDGMENTS UNDER SARFAESI ACT, DRBT ACT &amp; IBC, ELP, Available at : <a href="https://elplaw.in/wp-content/uploads/2023/09/JUDGMENTS-UNDER-SARFAESI-ACT.pdf">https://elplaw.in/wp-content/uploads/2023/09/JUDGMENTS-UNDER-SARFAESI-ACT.pdf</a></li> </ul>	