

CENTRE FOR PUBLIC INTEREST LITIGATION

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v.

HOUSING & URBAN DEVELOPMENT CORPORATION LTD.  
& ORS.

(Writ Petition (C) No. 573 of 2003)

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JANUARY 03, 2017

[T.S. THAKUR, CJI, A.M. KHANWILKAR AND  
DR. D.Y. CHANDRACHUD, JJ.]

*Recovery of Debts Due to Banks and Financial Institutions Act, 1993 – Enforcement of Security Interest and Recovery of Debt Laws and Miscellaneous Provisions (Amendment) Act, 2016 – Requirement of expeditious disposal of proceedings before the Debt Recovery Tribunals – Legislative changes may not by themselves achieve the intended object so long as infrastructure provided to the Tribunals is not commensurate with the burden of the work and nature of judicial duties – Union Government directed to file affidavit dealing with various issues in regard to infrastructure of Debt Recovery Tribunals and Appellate Tribunals.*

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Parliament enacted the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 for providing for the establishment of tribunals and appellate tribunals for expeditious adjudication and recovery of dues to banks and financial institutions. Subsequently, in order to deal with the large pendency of cases, the Enforcement of Security Interest and Recovery of Debt Laws and Miscellaneous Provisions (Amendment) Act, 2016 has been enacted.

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Issuing directions, the Court

**HELD:** 1. Legislative changes to provide for expeditious disposal of proceedings before the Debt Recovery Tribunals may not by themselves achieve the intended object so long as the infrastructure provided to the Tribunals is not commensurate with the burden of the work and nature of judicial duties. The Debt Recovery Tribunals and Appellate Tribunals suffer from a lack of adequate infrastructure, manpower and resources. Having due regard to the important adjudicatory function which is entrusted

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A to these Tribunals, the efficacy of parliamentary legislation will depend in a large measure on the efficiency with which the Tribunals discharge their duties. [Para 4] [403-H; 404-A-C]

B 2. The Union Government is directed to file an affidavit specifically dealing with the following issues: (i) Whether the  
 B timelines set down in the amended legislation are capable of being achieved with the existing infrastructure including judicial  
 C personnel and staffing pattern of the Debt Recovery Tribunals and Debt Recovery Appellate Tribunals; (ii) The underlying basis,  
 if any, upon which the revised timelines have been stipulated and whether any scientific study has been conducted on the  
 C availability of infrastructure; (iii) Whether, and if so, what steps the Union government intends to adopt to enhance the  
 infrastructure of Debt Recovery Tribunals and the Appellate Tribunals in terms of physical infrastructure, judicial manpower  
 D and non-judicial personnel required for the efficacious functioning of the Tribunals; (iv) The specific plan of action including time-  
 schedules within which the existing infrastructure would be upgraded so as to achieve the time frame for disposal indicated  
 in the amended legislation; and (v) Empirical data on the pendency of cases for more than ten years and the list of corporate entities  
 E where the amount outstanding is in excess of Rs.500 crore. However, the direction for filing of affidavit shall not in any manner  
 affect the functioning of the Committee which has already been constituted by the Union government. [Paras 5, 6] [404-D-G]

CIVIL ORIGINAL JURISDICTION: Writ Petition (Civil) No. 573 of 2003.

F Under Article 32 of the Constitution of India.

G Ranjit Kumar, SG, Jaideep Gupta, Sr. Adv., Prashant Bhushan, Ms. Kamini Jaiswal, Devesh Kumar Agnihotri, Govind Jee, Rohit Kumar Singh, R. Chandrachud, Ms. Binu Tamta, D.L.Chidananda, R.K.Verma, R. R.Rajesh, Ms. Anil Katiyar, Kuldeep S. Parihar, H.S.Parihar, Pranab Kumar Mullick, Ms. Soma Mullick, Sebat Kumar Deuria, A. Chatterjee, Mudit Sharma, Ms. Nina Gupta, Lalit Bhasin, Ms. Ranu Purohit, Ms. Ruby Singh Ahuja, Vishal Gehrana, Milanda Sharma, Ms. Manik Karanjawala, Pankaj Pandey, P. Parmeswaran, Rajeev Sharma, Vikas Mehta, Advs. for the appearing parties.

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The Judgment of the Court was delivered by

**DR. D. Y. CHANDRACHUD, J.** 1. Prior to the establishment of Debt Recovery Tribunals, as on 30 September 1990, more than fifteen lakh cases filed by public sector banks and about three hundred and four cases filed by financial institutions were pending before various courts. The amounts involved were to the extent of Rs. 5,622 crores in dues of public sector banks and Rs. 391 crores of financial institutions. Following the Reports of the Narasimhan Committee and the 2 Tiwari Committee, Parliament enacted the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 for providing for the establishment of tribunals and appellate tribunals for expeditious adjudication and recovery of dues due to banks and financial institutions.

2. At present, thirty four Debt Recovery Tribunals and five Appellate Tribunals are functioning in the country. In financial year 2015-16 these Tribunals disposed of about 16,000 original applications involving a total amount of Rs. 34,000 crores. Since their inception until 31 October 2015, the Tribunals had disposed of 1,34,433 original applications leading to the recovery of an amount of Rs. 70,725 crores. The Tribunals are also vested with the jurisdiction to entertain securitization applications under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

3. This Court has been apprised, in the submissions filed by the Union government, that more than 70,000 cases involving an amount of Rs.5 lakh crores approximately are pending before the Debt Recovery Tribunals, of which many are pending for more than ten years. Though the Act of 1993 provides for the disposal of recovery applications within one hundred and eighty days, cases have remained pending for years together. In order to deal with the large pendency of cases, the Enforcement of Security Interest and Recovery of Debt Laws and Miscellaneous Provisions (Amendment) Bill, 2016 was introduced in the Lok Sabha on 11 May 2016. The Bill was referred to a Joint Committee of 3 both Houses of Parliament. The Committee presented its Report to the Lok Sabha on 22 July 2016. Eventually, a law has been enacted by both the Houses of Parliament and published in the E-gazette on 16 August 2016.

4. Legislative changes to provide for expeditious disposal of proceedings before the Debt Recovery Tribunals may not by themselves

A achieve the intended object so long as the infrastructure provided to the  
Tribunals is not commensurate with the burden of the work and nature  
of judicial duties. Recently, the Chairperson of the Debts Recovery  
Appellate Tribunal at Allahabad addressed a letter on 9 December 2016  
B to the Chief Justice of India recording that he was constrained to tender  
his resignation from the post of Chairperson since, in the absence of  
infrastructure and facilities, the functioning of the adjudicating body over  
which he presided had become impossible. This is symptomatic of a  
trend whereby the Debt Recovery Tribunals and Appellate Tribunals  
suffer from a lack of adequate infrastructure, manpower and resources.  
C Having due regard to the important adjudicatory function which is  
entrusted to these Tribunals, the efficacy of parliamentary legislation  
will depend in a large measure on the efficiency with which the Tribunals  
discharge their duties.

5. We accordingly direct the Union Government to file an affidavit  
specifically dealing with the following issues :

D (i) Whether the timelines set down in the amended legislation are  
capable of being achieved with the existing infrastructure including judicial  
personnel and staffing pattern of the Debt Recovery Tribunals and Debt  
Recovery 4 Appellate Tribunals;

E (ii) The underlying basis, if any, upon which the revised timelines  
have been stipulated and whether any scientific study has been conducted  
on the availability of infrastructure;

F (iii) Whether, and if so, what steps the Union government intends  
to adopt to enhance the infrastructure of Debt Recovery Tribunals and  
the Appellate Tribunals in terms of physical infrastructure, judicial  
manpower and non-judicial personnel required for the efficacious  
functioning of the Tribunals;

(iv) The specific plan of action including time-schedules within  
which the existing infrastructure would be upgraded so as to achieve the  
time frame for disposal indicated in the amended legislation; and

G (v) Empirical data on the pendency of cases for more than ten  
years and the list of corporate entities where the amount outstanding is  
in excess of Rs.500 crore.

H 6. The affidavit shall be filed within a period of four weeks from  
today. We clarify that this direction for the filing of a further affidavit

shall not in any manner affect the functioning of the Committee which  
has already been constituted by the Union government and whose report  
is awaited.

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Ankit Gyan

Directions issued.