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**Debts Recovery Tribunal Bar Association**  
**Vs.**  
**UOI and others**

Present: Mr. Anand Chhibber, Sr. Advocate  
With Mr. KPS Dhillon, Advocate  
Mr. Amit Rishi, Advocate  
Mr. R.S. Bhatia, Advocate  
Mr. Sumit Batra, Advocate  
and Mr. Karan Nehra, Advocate  
for the petitioner.

Mr. Satya Pal Jain, Additional Solicitor General of India  
with Mr. Dheeraj Jain, Advocate  
for Union of India.

Mr. Surender Pal, Advocate  
for respondent no.4.

Mr. C.M. Munjal, Advocate  
and Ms. Seema Arora, Advocate  
for respondent no.5.

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1. This writ petition has been filed by the Debts Recovery Tribunal Bar Association, Chandigarh (for short 'DRT Bar Association'), being aggrieved of alleged intemperate, erratic behaviour and working patterns of respondent no.4. It is prayed that detailed enquiry should be conducted in terms of Section 15 (2) of the Recovery of Debts and Bankruptcy Act, 1993 (for short 'RDB Act') regarding incompetency of respondent no. 4 to act as Presiding Officer of DRT-II, Chandigarh. In the alternate, it is prayed that respondent no.4 be transferred from DRT-II, Chandigarh to any other tribunal on account of his alleged vindictive approach, which is stated to have further aggravated after submission of representation dated 13.10.2022, Annexure P-7, by the petitioner Association before Hon'ble the Chief Justice of India and others. There are allegations of intemperate behaviour besides a vindictive streak on the part

of respondent no.4, who is alleged to have created such an atmosphere in Court that conducting of cases is virtually impossible with uncalled for remarks and imposition of unjustified costs at the drop of a hat.

2. Learned senior counsel appearing on behalf of petitioner submitted that respondent no. 4 as a matter of routine is adjourning matters for the year 2025, 2026 and now even for December 2026. The same, it is submitted is clearly against the mandate and spirit itself of the RDB Act. Section 19 (24) of RDB Act provides that an application filed under the Act should be decided finally within 180 days from receipt of the application. It was contended that even if said provision, for the sake of argument, is taken to be directory and not mandatory, adjournment of matters to the year 2025 and 2026 is clearly unjustified. Reference was made by learned senior counsel for the petitioner to various orders which have been attached with the writ petition and subsequent applications wherein matters have been adjourned to such long dates including OA's filed by Financial Institutions, wherein defendants have been proceeded ex parte, but nevertheless the OA has been adjourned for ex parte arguments to the year 2026. Matters listed in March 2022 were adjourned to the year 2026. Very object of the Act, which is facilitation of speedy recovery of public dues it is submitted, stands defeated by such long adjournments. Furthermore, respondent no. 4, it is alleged adopts a threatening stance in the Court room and is in the habit of imposing phenomenal costs having little or no co relation with alleged non compliance on the part of litigants. It was contended that paradoxically heavy penalties are imposed for a single non compliance or delay for a few days, but at the same time learned Presiding Officer, as a matter of routine adjourns matters to the year 2025/2026. Even in certain matters where

written synopsis have been filed and no further proceedings are to be carried out, matter is adjourned for such long dates. It is submitted that economy of the area is being held hostage in this manner by the learned Presiding Officer.

3. Learned senior counsel for the petitioner submitted that apart from DRT-II, two more tribunals are functioning at Chandigarh i.e. DRT-I and DRT-III and lawyers are regularly conducting work before both the tribunals without any difficulty with no such rude or intemperate behaviour faced by them. Learned senior counsel for petitioner repeatedly stated that present writ petition had been filed without any kind of disrespect to the Presiding Officer, but petitioner Association would submit with utmost humility that work was being affected and despite best efforts on their part, it was not possible to carry on appearing before respondent no. 4, who seems to have acquired a vengeful attitude towards lawyers for no rhyme or reason. Due to this reason, lawyers are unable to appear before DRT-II, Chandigarh, to provide assistance as even bare minimum courtesy to ensure a congenial atmosphere is not forthcoming.

4. In order to reflect alleged erratic working of respondent no.4, reference was made to order dated 26.06.2023 in OA No. 622 of 2023, titled HDFC Bank Vs. Mahadev Traders, which was directed to be listed before the Registrar on 20.10.2023 for admission or denial of documents. However, the said OA, in a peculiar manner was statedly listed before the Presiding Officer on 01.07.2023. It was recorded in order dated 01.07.2023 that affidavit of evidence is not proper, thus proper affidavit of evidence be filed. On 01.07.2023, none was marked present for defendants, who are then stated to have been proceeded ex parte on 26.06.2023. Said matter was

adjourned to 22.12.2026 for ex parte arguments. Learned senior counsel pointed out that defendants were duly represented by their counsel on 26.06.2023 when matter was adjourned to 20.10.2023. Reference was also made to order dated 02.02.2023, passed in OA No. 706 of 2017, titled PNB Bank Vs. M/s Shree Krishan Agro Foods and another, wherein the final order was statedly passed and duly uploaded. OA was allowed and recovery certificate directed to be issued. However, an absolutely contrary order also dated 02.02.2023 was subsequently uploaded, which reads as under:-

“Synopsis has been filed. Synopsis is sketchy and half baked. To come up on 13.01.2025 for filing synopsis and ex parte arguments.”

5. Learned senior counsel for the petitioner further referred to written statement filed on behalf of this High Court in CWP No. 15950 of 1997, titled Sh. M.M.Dhonchak, Additional Civil Judge (Sr. Division) Vs. Punjab and Haryana High Court, to submit that respondent no. 4 has a history of temperamental problems even while serving as Judicial Officer in the State of Haryana. An application under Section 18(A) and 17(2) of the RDB Act, it is submitted has also been filed by petitioner before the Debt Recovery Appellate Tribunal (DRAT), New Delhi, wherein it has been prayed that all cases pending before DRT-II, Chandigarh, should be transferred to any other tribunal i.e., DRT-I or DRT-III, Chandigarh, with other reliefs as are detailed in the said application. It was thus prayed that this writ petition should be allowed.

6. Learned counsel for the Union of India has taken a stand that in view of Tribunal (Conditions of Service) Rules, 2021, enacted under the Tribunal Reforms Act, 2021, it is no longer within the jurisdiction of Union of India to take any interim measures regarding the Presiding Officer. An

enquiry was conducted by learned Chairperson DRAT, New Delhi. It is submitted that pursuant thereto, matter has been placed before the Hon'ble Search-cum-Selection Committee, for necessary action and the matter is pending.

7. Learned counsel for respondent no. 4 while vehemently denying allegations as raised against respondent no.4 submits that sole effort of petitioner Association is to somehow oust the answering respondent from his seat for reasons best known to it. Answering respondent no.4, it was contended has disposed of record number of cases since his appointment on 20.02.2022. Long adjournments are necessitated because of the quantum of work. Furthermore, members of petitioner-Association have in an absolutely illegal manner proceeded to boycott the Court which is a completely and wholly unjustified action and downright illegal. Respondent no. 4 has filed status report dated 12.10.2023, wherein it is stated that he has disposed of record number of cases with total cases disposed of from the date he assumed charge till 10.10.2023 being 4915 though it is not mentioned as to how many of these matters had been dismissed in default and how many on merits after hearing arguments. Learned counsel for respondent no.4 also did not have the said information. Learned counsel for respondent no.4 further submitted that imposition of costs etc., is the prerogative of the Presiding Officer and there cannot be any adjudication upon judicial orders passed by him in the present proceedings where parties in question are not before this Court. In respect to orders passed in OA No. 622, it is submitted that Legal Manager of applicant Bank was present on 01.07.2023, but none of these facts were brought to notice of respondent no.4. In respect to so called contradictory orders passed on 02.02.2023 in OA No. 706 of 2017, inquiry

was conducted wherein it was revealed that an unsigned order was uploaded by mistake on the part of staff and same was never brought to knowledge of respondent no.4 for fear of action/ annoyance. When the mistake came to light, order was deleted by the staff on its own and correct order uploaded. Respondent no. 4, it was contended has maintained cordial atmosphere in his Court and in case, his working is not to liking of the lawyers that cannot be a ground to transfer the cases from his Court. In respect to paucity of staff and requirement of more tribunals, necessary communication had been addressed by him on a number of occasions but to no avail. Respondent no. 4, it was submitted has to work in conditions which are far from ideal in terms of availability of infrastructure and trained staff. It is only his efforts to maximize output which is not palatable to petitioner Association, which seems to have an agenda of its own. Dismissal of the writ petition was sought.

8. Heard learned counsel for the parties.

9. It is to be noted that notice of motion was issued in this writ petition on 27.10.2022 by Coordinate Bench, wherein, it was noted that though Nodal Officers of Banks had appeared before the 4<sup>th</sup> respondent in the absence of lawyers but 4<sup>th</sup> respondent took a stand that said officers had no authority to appear in the OA's as they were not authorized officers of Bank, who had instituted the OA(s) and several orders were passed by respondent no.4 dismissing the OA's in default. While not appreciating the conduct of members of petitioner-Association proceeding on strike in view of strained relationship between members of DRT Bar Association and respondent no. 4, it was observed that necessary steps had to be taken to ensure that injustice is not done to the parties and that there should be no

wholesale dismissal of cases pending before the tribunal or passing of adverse orders by respondent no.4. Respondent no. 4 was accordingly restrained from passing any adverse orders in any of the cases i.e., OA's or SA's till the next date of hearing.

10. Thereafter, vide order dated 30.11.2022, Coordinate Bench took note of the fact that respondent no. 4 had dismissed 55 OA's and 12 SA's in default on 27.10.2022 and on the day prior 65 OA's and 10 SA's were dismissed in default. Cumulative effect of dismissal of the OAs being in excess of Rs. 500 Crores, following question was framed for consideration:-

“ Whether the actions of the Presiding Officer of DRT-II in dismissing for non-prosecution such a large number of OAs causing huge loss to the public exchequer can be said to have been done in good faith so as to entitle him to seek the benefit of the protection contained in Section 33 of the Recovery of Debts & Bankruptcy Act, 1993?”

11. It was noted in the said order that in case, order dated 27.10.2022 is not extended, there is every possibility of respondent no. 4 dismissing more OAs and SAs thereby causing loss to public exchequer which may practically lead to collapse of Banks and Financial Institutions.

12. SLP (C) No. 21138 of 2022 filed by respondent no. 4 challenging order dated 27.10.2022, was disposed of on 12.12.2022 by Hon'ble the Supreme Court. Order dated 12.12.2022 reads as under:-

“This Court passed the following order on 12.12.2022-

“By the impugned order, the High Court in exercise of powers under Article 227 of the Constitution of India and in a writ petition filed by the Debts Recovery Tribunal Bar Association, has restrained the Judicial Member of the Tribunal from passing any adverse orders in any of the cases (OAs or SAs) pending before him of which he is the Presiding Officer.

Such an interim order of not to pass any adverse orders in any of the cases by the Judicial Member of the Tribunal cannot be passed and is unsustainable.

At this stage, Shri Vikas Singh, learned Senior Advocate, appearing on behalf of the original writ petitioner Bar Association has fairly conceded that, let the concerned Judicial Member of the Tribunal proceed further with the hearing of the cases and decide the same on merits and the members of the Bar shall cooperate. However, he has requested that self-respect of the members of the Bar Association shall also be maintained. He has stated at the Bar that therefore, the Bar has no objection if the impugned order is modified to the extent allowing/permitting the Judicial Member of the Tribunal to proceed further with the hearing of the cases and to decide the same by him on merits.

In that view of the matter, we modify the impugned order passed by the High Court and permit the petitioner herein, Judicial Member of the Tribunal to proceed further with the hearing of the matters before him and decide the same on merits. It goes without saying that the Judicial Member as well as the Bar should always try to maintain cordial atmosphere/relationship as both are part of the justice delivery system and both are the two wheels of the chariot of justice. Therefore, it is expected that both the sides may respect each other.

We impress upon the petitioner also to see that there is no unnecessary confrontation and he may decide the cases in accordance with law on its own merits. That does not mean that we have commented upon the conduct on the part of the advocates and/or the petitioner-Judicial Member of the Tribunal.

It goes without saying that wherever the applications are dismissed for non-prosecution, it will be open for the concerned parties to move for restoration, which may be considered



positively with a view to see that no injustice is caused to the litigant.

Put up on 12.12.2022.

Let a copy of the petition be served in the office of Shri Tushar Mehta, learned Solicitor General.”

It is reported that the Chairman of the DRT/DRAT is seized with the matter looking to the grievances made by the Bar Association, more particularly on the conduct of the petitioner.

In that view of the matter, we continue the ad-interim relief granted earlier vide order dated 02.12.2022 and we leave the matter to the Chairman of the DRT/DRAT to take an appropriate decision independently and if required after giving an opportunity to the representative(s) of the Bar Association as well as to the petitioner

With this, the Special Leave Petition stands disposed of, at this stage.

Pending application(s) shall stand disposed of.”

13. It was brought to notice of Coordinate Bench that insensitivity on the part of respondent no. 4 had continued despite members of the petitioner-Association having resumed work with all responsibility. Detailed order was passed on 23.03.2023 by Coordinate Bench, relevant portion of which reads as under:-

“Apart from the need of sensitivity to deal with the matters pertaining to Section 17 of the SARFAESI Act, 2002, another aspect which is to be noticed is that while dealing with the O.As., filed by the banks under the Recovery of Debts due to Banks and Financial Institutions Act, 1993, he had dismissed 55 O.As. and 65 O.As when the interim order dated 27.10.2022 had been passed. Thus he caused huge loss to the financial institutions who are trying to recover public money and eventually, the amount has to go out from the hands of the tax payers. The responsibility level of the said officer is far below

the standards one had expected from him keeping in mind that he had retired as a District Judge. It is in such circumstances, keeping in view the law laid down in **Union of India and others Vs. DRT Bar Association 2013(1) SCR 480**, we feel that it is a case where we have to exercise our powers of superintendence as laid down in the aid judgment which reads thus:-

11.1. Article 227 of the Constitution stipulates that every High Court shall have superintendence over all courts and tribunals throughout the territories interrelation to which it exercises jurisdiction. This power of superintendence also extends to the administrative functioning of these courts and tribunals [**Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil**[JT2010(7) SC541: 2010(8) SCC 329]]. Hence, in light of the above, we expect that all the High Courts shall keep a close watch on the functioning of DRTs and DRAT, which fall within their respective jurisdictions. The High Courts shall ensure a smooth, efficient and transparent working of the said Tribunals. We are confident that through the timely and appropriate superintendence of the High Courts, the Tribunals shall adhere to the rigour of appropriate standards indispensable to the fair and efficient administration of justice.

In such circumstances, we are of the considered opinion that Mr. Jain will find out what is the stage of the grievances which are pending before the Chairman of the DRAT which have to be decided in view of the order passed by the Apex Court in the abovesaid SLP. He shall also take necessary instructions as to whether the said respondent can be placed under suspension or transferred to a lighter seat and whether the matters pertaining to the State of Haryana should be placed before the other two Benches to instill public confidence.

Let the said officer also file an affidavit as to how many applications have been moved for restoration by the concerned parties and how many he has restored till now as per the directions of the Apex Court on 02.12.2022 and which was also reproduced in the final order dated 12.12.2022.

Adjourned to 17.04.2023.”

14. Learned counsel for respondent-Union of India was directed to find out the stage of grievances pending before the Chairperson, DRAT, New Delhi and further seek instructions as to whether respondent no. 4 can be placed under suspension or transferred to a lighter seat and whether matters pertaining to the State of Haryana should be placed before other two Benches to instill public confidence.

15. Order dated 23.03.2023, was also challenged by respondent no. 4 vide SLP (C)No. 7926 of 2023, which was permitted to be dismissed as withdrawn after Hon’ble the Supreme Court refused to entertain the SLP while expressing great displeasure. Subsequently, vide order dated 17.04.2023, passed by Coordinate Bench, respondent no. 4 was directed to file better affidavit to comply with order dated 23.03.2023 while giving all details of necessary applications in respect to dismissal of the OAs and SAS on 26/27.10.2022 and whether there had been compliance of order dated 12.12.2022 passed by Hon’ble the Supreme Court in SLP (C) No. 21138 of 2022. This order dated 17.04.2023 was also challenged by respondent no. 4 by way of SLP (C) No. 15464-15465 of 2023, titled ‘M.M. Dhonchak Vs. Debts Recovery Tribunal Bar Association and others’, which was dismissed on 31.07.2023. Respondent no. 4 was permitted to withdraw the application filed by him seeking transfer of this writ petition from/ recusal of Coordinate Bench from the writ petition while expressing his regret.

16. It was informed by learned counsel for respondent-UOI on 24.07.2023 that enquiry by learned Chairperson, DRAT had been completed with preliminary report dated 10.07.2023 being submitted before Government of India. Affidavit dated 08.08.2023 of Mr. Subhash Chandra Amin, Secretary to Government of India, Ministry of Finance, Department of Financial Services was filed on 09.09.2023, wherein it is stated that the department on receipt of various representations in respect to alleged misbehavior, vindictiveness, incompetency/incapacity to perform duties and withdrawal of judicial work had requested the Chairperson, DRAT, Delhi to examine the same as per provisions of Rule 9 (1) of the 2021 Rules. It is further stated that Chairperson of the Appellate Tribunal in terms of Section 17 (A) (2) of the RDB Act, has discretion and jurisdiction on application by any of the parties or his own motion to transfer any case from one Tribunal for disposal to any other and Union of India did not have any jurisdiction in this regard. It was thereafter informed that competent authority had approved an enquiry against respondent no. 4 and letter dated 09.08.2023 in this regard had been placed before the Hon'ble Search-cum-Selection Committee and matter is pending. Prayer regarding inquiry to be held qua respondent no.4 as prayed for is rendered infructuous.

17. It was however noticed by this Court on 31.08.2023 that stalemate between members of the petitioner-Association and respondent no. 4 continued. Members of petitioner-Association expressed that it was impossible for them to appear before respondent no. 4 due to use of unparliamentarily, discourteous language, rude behaviour and that manner of functioning of respondent no.4 was absolutely unchanged. Cases were still being adjourned to the year 2025-26 and now even to December 2026 with

extremely harsh orders imposing costs to be recovered from the Advocates being passed. Members of the petitioner-Association after passing of order dated 12.12.2022 by Hon'ble the Supreme Court had resumed work, but it was submitted that again in June 2023, the matter went completely out of hand with respondent no. 4 adopting an absolutely vengeful attitude leading to lawyers having to abstain from appearance before respondent no.4.

18. During the course of arguments on 31.08.2023, it was assured by the petitioner through its President that they would again approach respondent no. 4 to assure extension of all cooperation for smooth functioning of the Institution and that all members would immediately start appearing in their matters provided their self respect is maintained. Relevant part of order dated 31.08.2023 reads as under:-

“At this stage, learned senior counsel for the petitioner-association on instructions from President of the petitioner-association, present in Court submits that petitioner through its President and other members would again approach respondent no. 4 to assure extension of all cooperation for smooth functioning of the institution. It is further submitted that all members of petitioner-association would immediately start appearing in their matters for providing necessary assistance provided their self-respect is maintained.

Learned counsel for respondent no. 4 while ascertaining that cordiality has always been maintained in the Tribunal and that out station lawyers have also been appearing through video conferencing, however, submits that difficulties, if any, faced by members of petitioner-association would be looked into.

Keeping in view the above, we are sanguine that matter shall be resolved, with both the parties remain conscious of the immense responsibility cast upon them to ensure smooth functioning of the Tribunal.”

19. This writ petition was then taken up for hearing on 17.10.2023 with none of the counsel having appeared on 26.09.2023. It was brought to our notice that respondent no. 4 had been approached by the petitioner through its President/Executive, but the matter remains where it was. Divergent versions have been given by the petitioner as well as respondent no.4 regarding the meeting between petitioner and respondent no.4, though it is matter of record and admitted by respondent no. 4 that Communication dated 04.09.2023, was received by him from the petitioner-Association with a request for meeting members of petitioner-Association. It was asserted on behalf of the petitioner-Association that neither proper hearing was afforded nor respondent no. 4 was ready to listen any of the grievances, while respondent no. 4 maintained that the meeting ending on a note of cordiality.

20. In the given factual matrix, this Court is impelled to cause intervention in exercise of powers of superintendence under Article 227 of the Constitution of India. It is in-fact the litigant who is suffering in this mindless tussle which benefits none. Suspension of work or boycott of any Court is a course which we do not approve of in any manner. It is apparent that both the petitioner and Presiding Officer have not been able to focus on their primary object and duty i.e., to ensure dispensation of timely and proper justice to the litigant. Admittedly, the Bar and Bench/ Presiding Officer, are two wheels of the chariot of justice. Onus is cast upon both to ensure that the Institution works in a proper manner. Balance has to be achieved to ensure that work is discharged in accordance with law in a congenial and cordial atmosphere. There is no place for ego or preconceived notions in this environment on either side. It is the letter of law which should be implemented. Union of India has conveniently stated that

it is not for them to take any interim measures while the matter is pending before the Hon'ble Search-cum-Selection Committee and that interim action if any/as may be required can be taken by Chairperson of Appellate Tribunal. Section 17 (A) (2) of the RDB Act reads as under:-

“17A. Power of Chairperson of Appellate Tribunal

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(2) The Chairperson of an Appellate Tribunal having jurisdiction over the Tribunals may, on the application of any of the parties or on his own motion after notice to the parties and after hearing them, transfer any case from one Tribunal for disposal to any other Tribunal.”

21. Various orders have been passed in this writ petition, but no interim measure has been taken by the learned Chairperson under Section 17-A of the RDB Act. The fact remains that proceedings before learned DRT-II, Chandigarh are not continuing as they should be. In the given circumstances, we are constrained to exercise our jurisdiction under Article 227 of the Constitution of India to ensure proper functioning of DRT-II, Chandigarh. It is to be noted at this stage that Hon'ble the Supreme Court in the case of **Union of India and others Vs. Debts Recovery Tribunal Bar Association, 2013 (2) SCC 574** has held as under:-

“11.1. Article 227 of the Constitution stipulates that every High Court shall have superintendence over all courts and tribunals throughout the territories interrelation to which it exercises jurisdiction. This power of superintendence also extends to the administrative functioning of these courts and tribunals [**Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil**[JT2010(7) SC541: 2010(8) SCC 329]]. Hence, in light of the above, we expect that all the High Courts shall keep a close watch on the

functioning of DRTs and DRAT, which fall within their respective jurisdictions. The High Courts shall ensure a smooth, efficient and transparent working of the said Tribunals. We are confident that through the timely and appropriate superintendence of the High Courts, the Tribunals shall adhere to the rigour of appropriate standards indispensable to the fair and efficient administration of justice.”

22. Despite number of orders passed in this writ petition, requisite action, it appears has not been taken by respondent no.4 to ensure proper functioning of DRT-II, Chandigarh. In our considered opinion, long adjournments being given in the matters admittedly till December 2026 are clearly antithesis to the letter and spirit of the RDB Act itself. Merely to say that large pendency of cases necessitates such long adjournments, is a stand not to be countenanced. It is with great anguish we note that despite observations in earlier orders regarding long adjournments, respondent no. 4 continues to adjourn matters to such dates for arguments and that too in OAs filed by the Bank/Financial Institutions where defendants have been proceeded ex parte. As the matter is informed to be pending before the Hon'ble Search-cum-Selection Committee after submission of preliminary report dated 10.07.2023, we do not consider it appropriate to express any opinion in regard thereto.

23. Immediate concern of this Court is to ensure proper functioning of DRT-II, Chandigarh, because existing stalemate between members of petitioner Association and respondent no.4 is clearly working to detriment of litigants. It has also led to filing of unnecessary writ petitions before this Court. Number of writ petitions have been filed for setting aside order(s) passed by learned DRT-II, Chandigarh, dismissing applications seeking



restoration of OA/SA's dismissed in default besides orders whereby restoration has been ordered subject to substantial costs to be recovered from the Advocate in question. Some such pending writ petitions are CWP No. 22696, 23808, 23400, 22918, 23562, 28666 and 21724 of 2023. During the course of hearing reference was made to order dated 16.09.2023 passed in MA No. 172 of 2023 in OA No. 3222 of 2017, wherein on an application seeking waiver of costs of Rs. 50,000/-, additional cost of Rs. 20,000/- was imposed by learned DRT-II, Chandigarh.

24. During the course of hearing, it was stated by learned counsel for respondent no. 4 that a number of Advocates are appearing through the medium of video conferencing and all lawyers are free to appear through video conferencing. However, learned counsel for the petitioner stated that the method of video conferencing followed by respondent no. 4 is absolutely opaque. Firstly, request has to be made for joining proceedings through video conferencing and when request is made, there is no reply, lawyer is not joined in the proceedings, no open link is provided which makes hearing through video conferencing absolutely ineffectual.

25. Mr. Satya Pal Jain, learned Additional Solicitor General of India, at that juncture had stated that infrastructure for hearing through hybrid mode shall be provided by Union of India and seamless hearing through said mode would be provided within two to three working days.

26. At this stage, we take note of order dated 06.10.2023, passed by Hon'ble the Supreme Court in **Writ Petition (Criminal) No. 351 of 2023, titled Sarvesh Mathur Vs. Registrar General of Punjab and Haryana High Court**, wherein it has been directed that Union of India shall ensure that on or before 15.11.2023 all tribunals should be provided with requisite

infrastructure for hybrid hearings and all tribunals shall ensure commencement of hybrid hearings no later than 15.11.2023.

27. Keeping in view the facts and circumstances of the case, instead of closing the present proceedings, we consider it imperative that immediate measures should be taken to ensure proper functioning of learned DRT-II Chandigarh to restore public faith and confidence besides ensuring faithful implementation of provisions of SARFAESI Act in letter and spirit so that the very purpose of the statute is not rendered meaningless. First and foremost necessary steps be taken by Union of India in terms of order dated 06.10.2023, passed by Hon'ble the Supreme Court in **Writ Petition (Criminal) No. 351 of 2023, titled Sarvesh Mathur Vs. Registrar General of Punjab and Haryana High Court**, to ensure that there is no let up or shortcoming in putting in place entire infrastructure to facilitate hearing through hybrid mode at DRT-II, Chandigarh, as well as DRT-I and DRT-III, Chandigarh well before 15.11.2023 so as to ensure that hearing through this mode can commence on or before 15.11.2023. Needless to say that in terms of order dated 06.10.2023, there would be no requirement for submitting prior application for hearing through hybrid mode. Necessary link (s) be made available in the daily cause list of learned DRT-II, Chandigarh.

28. At this stage, we take note of submission by learned counsel for respondent no.4 that entire proceedings should be recorded and record thereof be kept for a requisite period. Let such an exercise be carried out till the next date of hearing by dedicated personnel to be provided by Union of India under supervision of respondent no.4.

29. Further, Union of India shall also ensure that proper infrastructure and staff, if any/as may be required should be provided as soon as possible. Necessity of making available additional benches, if so required, should be examined and explored to ensure successful implementation of provisions of SARFAESI Act.

30. While not commenting upon any individual order imposing costs while restoring an OA/SA or for setting aside ex parte proceedings, it is directed that deposit of such cost(s) in matters regarding restoration of matters dismissed in default between October 2022 till date, shall not be insisted upon in any matter till further orders. We clarify at this stage that such order is being passed in the peculiar facts and circumstances of this case in exercise of powers of superintendence under Article 227 of the Constitution of India but without expression of any opinion on the merits of respective orders. Further, respondent no. 4 shall also consider the application (s), if any, filed before him for preponement of matters adjourned for long dates, especially matters wherein defendant has/have been proceeded ex parte and matters stand adjourned for arguments.

31. Members of petitioner Association shall resume work without further ado. Cordial and congenial atmosphere shall be maintained by both sides. Respondent no.4, who is a seasoned judicial officer having retired as District Judge from the State of Haryana, shall take necessary steps to ensure proper, successful working of his Court while being fully conscious of the onerous responsibility upon his shoulders. Due care and caution be exercised to ensure that object of the statute is carried out in letter and spirit and its purpose is not frustrated. It is reiterated that this order is being passed to ensure proper and smooth functioning of DRT-II, Chandigarh, without any

castigation or indictment of conduct of any party at this stage. Directions as above in this respect are summarized as under:-

- i. Union of India to ensure that there is no let up in providing entire necessary infrastructure to facilitate hearing through hybrid mode before learned DRT, Chandigarh in terms of order dated 06.10.2023 passed by Hon'ble the Supreme Court in the case of Sarvesh Mathur (Supra). In compliance of abovesaid order, there shall be no requirement of submitting prior applications for such hearings. Dedicated links for access to hearing through this mode would appear in the daily cause list of the Tribunal.
- ii. Keeping in view the submission made on behalf of respondent no.4, recording of proceedings before respondent no.4 be carried out by dedicated personnel to be provided by Union of India under direct supervision of respondent no.4.
- iii. Till further orders, there be no insistence upon deposit of costs in compliance of any order passed by respondent no.4 for restoration of any OA/SA dismissed in default between October 2022 till date.
- iv. Application (s), if any, for preponement of matters adjourned for long dates beyond six months to be considered by respondent no.4 in accordance with law.
- v. Lawyers to resume work before learned DRT-II without further ado. Cordial and congenial atmosphere be maintained by both members of petitioner Association and respondent no.4 to obviate any prejudice to the litigants.
- vi. Union of India shall ensure that proper infrastructure and staff as may be required should be provided as soon as possible. Necessity of making available additional benches, if so required, be examined, explored and requisite steps be undertaken as may be required. Report

in this respect be filed on behalf of Union of India before the next date of hearing.

32. Keeping in view the sensitivity of matter, we request learned Chairperson DRAT, New Delhi, to decide application dated 09.06.2023 filed by petitioner under Section 17(A) and 17(2) of the RDB Act, expeditiously.

List on 18.12.2023.

**( LISA GILL )**  
**JUDGE**

**(RITU TAGORE)**  
**JUDGE**

**November 03, 2023.**  
s.khan