2026 INSC 1287

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2026
(@ S.L.P. (C) NO.38284 OF 2025)

ASST. GENERAL MANAGER,
STATE BANK OF INDIA ... APPELLANT

VERSUS

S. LOGANATHAN & ORS. ... RESPONDENTS

JUDGMENT

ALOK ARADHE, J.

1. Leave granted.

2. The present appeal raises an important question concerning the territorial limits of the recovery jurisdiction exercised by the Debts Recovery Tribunals under the Recovery of Debts and Bankruptcy Act, 1993 (the 1993 Act), particularly in relation to the execution of a recovery certificate against the property situated beyond the local limits of the Tribunal which issued it. The question is of considerable practical importance and recurs before Debts Recovery Tribunals across the country, and the High Courts have expressed divergent views on it.

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Reason:

3. This appeal takes exception to the judgment dated 22.08.2025 passed by the High Court[1] in a Writ Petition[2]. By the said judgment, the High Court partly allowed the Writ Petition filed by Respondent No.1 (the Borrower) and held that the recovery certificate[3] issued by the Debts Recovery Tribunal-III, Chennai (DRT, Chennai) ought to be transmitted to the Debts Recovery Tribunal, Madurai (DRT, Madurai), which alone is vested with jurisdiction to execute it.

FACTUAL BACKGROUND

4. Facts giving rise to filing of this appeal lie in a narrow compass and are as follows. The Borrower and his late wife were partners of a partnership firm, namely M/s Venkatesh Real Estate, which was renamed as M/s S. Loganathan Contractor with effect from 20.06.2006. Between 2004 and 2006, the firm availed of various credit facilities from the appellant, the State Bank of India, through its Commercial Branch at Tiruchirappalli (the Bank). A mortgage loan of Rs.18.50 lakhs sanctioned in December 2004 was enhanced to Rs.42 lakhs on 08.09.2005 and, on 21.06.2006, the Bank sanctioned a cash

[1] **High Court of Judicature at Madras, Madurai Bench**
[2] **W.P. (MD) No. 5840 of 2023**
[3] **Recovery Certificate No.14 of 2022 dated 07.01.2022**

credit limit of Rs.1.22 crores to the firm. The Borrower and his late wife were the guarantors to the aforesaid transaction and, in order to secure the loan, had created an equitable mortgage by deposit of title deeds in respect of two properties, namely a residential land and building situated on plot no.671, K.K. Nagar (Schedule A property), which stood in their joint names, and land & building situated on plot no.18B, Murugavel Nagar (Schedule B property), which stood in the name of the Borrower. Both the properties are situated in K. Sathanur Village, Tiruchirappalli District, which falls within the territorial jurisdiction of DRT, Madurai (the subject properties).

5. The account of the firm became irregular on 31.10.2007 and the Bank issued a notice dated 09.01.2008 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (the 2002 Act). The account was classified as a non-performing asset. The Bank issued further notices on 06.11.2009 and 10.03.2010 under Section 13(2) of the 2002 Act. On 25.09.2010, the Bank issued a notice under Section 13(4) of the 2002 Act. The Borrower challenged the measures taken by the Bank under the 2002 Act

by way of a Securitisation Application[4] before DRT, Madurai. On 13.08.2010, the Bank had filed an application[5] under Section 19 of the 1993 Act before DRT, Madurai for recovery of a sum of Rs.1,50,77,944/- (Rupees One Crore Fifty Lakh Seventy-Seven Thousand Nine Hundred Forty-Four only) along with interest at the rate of 11.50% per annum and for sale of the mortgaged properties.

6. The Borrower sought transfer of both the proceedings pending before the DRT, Madurai, alleging bias on the part of the Presiding Officer, DRT, Madurai. The Debts Recovery Appellate Tribunal (DRAT), by orders dated 29.12.2011 and 19.01.2012, transferred both the matters to DRT-II, Chennai. On a further application of the Borrower alleging bias on the part of the Presiding Officer of DRT-II, Chennai, the DRAT transferred both the matters to DRT-III, Chennai, where they were renumbered as O.A. No.216 of 2013 and S.A. No.213 of 2013.

7. By a common order dated 16.09.2020, the DRT, Chennai allowed the Securitisation Application, quashed the demand notice dated 10.03.2010 under Section 13(2) and the notice dated 25.09.2010 under Section 13(4) of the 2002 Act and

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[4] **Securitisation Application No.248 of 2010**

[5] **O.A. No.202 of 2010**

granted liberty to the Bank to proceed afresh. In the original application filed by the Bank, the Bank was held entitled to recover a sum of Rs.1,50,77,944/- (Rupees One Crore Fifty Lakh Seventy-Seven Thousand Nine Hundred Forty-Four only) from the firm, the Borrower and his late wife along with simple interest only at the savings bank rate from the date of the application. It was directed that, in case of default, the Bank may sell the mortgaged properties and that, if the sale proceeds were found insufficient, the Borrower and his late wife would be personally liable for the deficiency.

8. Being aggrieved by the reduction of the rate of interest, the Bank approached the DRAT by way of an appeal[6]. However, the Borrower did not challenge the judgment of DRT, Chennai. During the pendency of the appeal before the DRAT, on 27.07.2021, the wife of the Borrower, namely Smt. L. Kannukkiniyal, expired. On 22.09.2021, her death certificate was placed before the DRAT, and the counsel for the Bank sought time to bring her legal representatives on record.

9. On 07.01.2022, DRT, Chennai issued the recovery certificate under Section 19(7) read with Section 19(22) of the 1993 Act.

[6] **R.A. No.45 of 2021**

The certificate included the names of all the three certificate debtors, including the name of the deceased wife of the Borrower (Certificate Debtor No.3), and the schedule to the original application was made a part of it. The certificate debtors were directed to appear before the Recovery Officer, DRT, Chennai. The Recovery Officer on 11.01.2022 issued a demand notice.

10. The execution proceeded thereafter as follows:

(i) On 28.06.2022, the Recovery Officer attached the Schedule B property, describing Certificate Debtor No. 3 as "deceased".

(ii) On 07.07.2022, on an affidavit filed by the Bank on 30.06.2022, he issued a warrant under Section 25(aa) of the 1993 Act appointing respondent no. 2 as Advocate Commissioner to take physical possession of the Schedule B property.

(iii) On 01.10.2022, the Bank filed an affidavit before the Recovery Officer to bring on record the legal representatives of the deceased, namely the Borrower and their two sons, Chidambara Venkatesh and Chidambara Raghavendar.

(iv) The Borrower filed M.A. No. 999 of 2022 objecting to the territorial jurisdiction of the Recovery Officer, which was dismissed on 17.11.2022.

(v) On 25.11.2022, the Recovery Officer, invoking Rule 85 of the Second Schedule to the Income-tax Act, 1961, issued a fresh demand notice that included the legal representatives.

(vi) Physical possession of the Schedule B property was taken on 06.01.2023.

(vii) On 13.01.2023, the Recovery Officer attached the Schedule A property under Rule 48 of the Second Schedule. As the High Court notes, he travelled from Chennai to Tiruchirappalli for that purpose and lodged the order with the Sub-Registrar, K. Sathanur.

(viii) On 16.02.2023, a warrant for possession of the Schedule A property was issued.

(ix) On 03.03.2023, M.A. No. 5 of 2023, which was filed against the fresh demand notice, and M.A. No. 10 of 2023, in which the issue with regard to territorial jurisdiction was raised once again, were dismissed. On the same day, notice for settling the sale proclamation of both the properties was issued.

11. The Borrower challenged the order of attachment dated 13.01.2023 by filing a Writ Petition before the High Court, *inter alia*, on the ground that DRT, Chennai lacked territorial jurisdiction, as neither of the properties was situate within its territorial limits. He also contended that the recovery certificate had been issued against a dead person and that the proceedings had abated.

THE IMPUGNED JUDGMENT

12. The High Court *vide* judgment dated 22.08.2025, on the basis of the principle that a decree is executed by the Court within whose jurisdiction the property is situate, held that DRT, Madurai alone has jurisdiction to execute the recovery certificate. The High Court concluded as follows: (i) the transfer of the original application to Chennai was at the instance of the Borrower, (ii) the grievance of the Borrower is not about the forum of adjudication but about the execution against the property outside the limits of DRT, Chennai, (iii) the issuance of the recovery certificate was well within the jurisdiction of DRT, Chennai, and (iv) for the execution of the recovery certificate, the same ought to have been transmitted to DRT, Madurai. The High Court, however, rejected the contention of the Borrower

that the recovery certificate was vitiated as it had been issued against a deceased person, on the ground that the objection had been considered and rejected by the Recovery Officer and the legal representatives had subsequently been brought on record. Accordingly, the High Court partly allowed the Writ Petition. By an order dated 06.01.2026, this Court issued notice and stayed the operation of the impugned judgment.

SUBMISSIONS ON BEHALF OF THE BANK

13. Mr. N. Venkataraman, learned Additional Solicitor General, submitted that under Section 22 of the 1993 Act, the Tribunal is not bound by the Code of Civil Procedure, 1908 (the Code) and can regulate its own procedure. It is further submitted that Section 19(23) of the 1993 Act uses the word "may" in its main part and "shall" in the proviso. It is contended that the word "may" used in Section 19(23) of the 1993 Act is directory and confers a discretion on the Tribunal either to execute the recovery certificate itself or to transmit it to the Tribunal within whose jurisdiction the property is situated. It is pointed out that the 1993 Act does not provide for any consequence for not sending the recovery certificate. It is argued that the 1993 Act is meant for speedy recovery of public money and that splitting

of the recovery certificate for execution amongst Tribunals would cause delay, particularly where the mortgaged properties are situated in different cities and States. It is also submitted that the proceedings were transferred to Chennai at the instance of the Borrower himself, that the Borrower has filed about 49 applications and appeals and has stalled the recovery for more than sixteen years, that the amount due stood at about Rs.9.39 crores as on 28.02.2026, and that the Writ Petition ought not to have been entertained in view of the remedy of appeal under Section 30 of the 1993 Act. It is urged that the pleas of the Borrower with regard to death, abatement and fraud do not arise from the impugned judgment and that non-joinder of the Recovery Officer is immaterial as he acts as a quasi-judicial authority. In support of the aforesaid submissions, reliance has been placed on the decisions of the Gujarat and Bombay High Courts[7].

SUBMISSIONS OF THE BORROWER

14. The Borrower, appearing in person, while supporting the impugned judgment, submitted that since the properties were

[7] **Bank of Baroda** v. **Balbir Kumar Paul, 2010 SCC OnLine Guj 4005; Tushar P. Shah** v. **International Asset Reconstruction Co. P. Ltd., 2012 SCC OnLine Bom 1201;** and **GSL (India) Ltd.** v. **Asset Reconstruction Co. (India) Ltd., 2015 SCC OnLine Bom 6073**

not situated within the territorial jurisdiction of DRT, Chennai, it was obligatory for it to transmit the recovery certificate to DRT, Madurai for execution. It is submitted that Section 19(23) of the 1993 Act contemplates that the territorial limits of the issuing Tribunal must be one of the "two or more" Tribunals and, where no part of the property lies within those limits, there is no discretion to be exercised. It is further submitted that where a power is given to do a thing in a certain way, it must be done in that way or not at all, and deprivation of property by an officer acting without jurisdiction offends the mandate of Article 300A of the Constitution of India. It is urged that the plea of nullity can be raised even in execution proceedings and that the recovery certificate is void as the same was issued on 07.01.2022, whereas the wife of the Borrower had expired on 27.07.2021. It is contended that Rule 85 of the Second Schedule to the Income-tax Act, 1961 applies only where the defaulter dies after the issue of a valid certificate. It is also urged that the legal representatives were not brought on record within the prescribed time limit, due to which the proceeding had abated. It is pointed out that one of the legal representatives, namely Chidambara Raghavendar, has a certified intellectual disability

of 70% and no guardian was appointed for him as required under Order XXXII Rule 15 of the Code and, therefore, the proceeding qua him is a nullity. It is also argued that the proceedings are vitiated by suppression and fraud. It is further submitted that the appeal is bad for non-joinder of the Recovery Officer and that a review application filed by the Borrower is pending before the High Court. In support of the aforesaid submissions, reliance has been placed on decisions of this Court and the High Courts[8].

SUBMISSIONS OF AMICUS CURIAE

15. Ms. Devanshi Singh, learned Amicus Curiae, submitted that the 1993 Act does not contain any express territorial bar preventing the Tribunal which issued the recovery certificate from executing the same merely because the property is situate outside its territorial limits. It is contended that the Tribunal is not bound by the Code and Section 39(4) of the Code cannot be imported to create a restriction which does not exist under the 1993 Act. It is pointed out that a recovery certificate is deemed

[8] **Mohit Bhargava** v. **Bharat Bhushan Bhargava, (2007) 4 SCC 795; Ramchandra Keshav Adke** v. **Govind Joti Chavare, (1975) 1 SCC 559; Kiran Singh v. Chaman Paswan, (1954) 1 SCC 710; Hasham Abbas Sayyad** v. **Usman Abbas Sayyad, (2007) 2 SCC 355; Isha Beevi** v. **Tax Recovery Officer, (1971) 80 ITR 82; Gurnam Singh** v. **Gurbachan Kaur, (2017) 13 SCC 414; Om Prakash Gupta** v. **Satish Chandra, 2025 SCC OnLine SC 291; Ragho Singh** v. **Mohan Singh, (2001) 9 SCC 717; A.V. Papayya Sastry** v. **Govt. of A.P., (2007) 4 SCC 221; Indian Bank** v. **Satyam Fibres (India) (P) Ltd., (1996) 5 SCC 550; Harjinder Singh** v. **Recovery Officer-II, 2020 SCC OnLine P&H 5220;** and **Ram Chandra Arya** v. **Man Singh, 1967 SCC OnLine SC 339**

to be a decree under Section 19(22A) only for limited purposes. It is argued that Section 19(23), on its plain language, applies to a specific situation where "the property is situated within the local limits of the jurisdiction of two or more Tribunals". It is submitted that the said phrase must be given its meaning and cannot be rendered otiose by treating Section 19(23) as applying to every case where the property is situated outside the jurisdiction of the Tribunal issuing the recovery certificate. It is contended that the word "may" in Section 19(23) of the 1993 Act is permissive and discretionary and cannot be read as "shall" in the absence of a compelling statutory or contextual necessity. It is urged that the said provision is procedural in nature and is intended to facilitate administrative efficacy and speedy recovery. It is argued that no substantive prejudice is caused to the judgment debtor merely because recovery is undertaken by the Recovery Officer attached to the Tribunal which issued the recovery certificate, since the 1993 Act, read with the Second Schedule to the Income-tax Act, 1961, contains elaborate safeguards at every stage and an order of the Recovery Officer is appealable under Section 30 of the 1993 Act. It is fairly submitted that where the Tribunal finds practical difficulties in

executing the certificate, it is always open to it to send the certificate to the Tribunal within whose limits the property is situated. The learned Amicus has brought to our notice the divergence of opinions amongst the High Courts[9] on the question whether the power to transmit the recovery certificate is discretionary. Our attention has also been invited to the 144th Report of the Law Commission of India on the conflict under Section 39 of the Code. In support of her submissions, the learned Amicus has referred to decisions of this Court[10].

ISSUES

16. The issues which arise for consideration in this appeal can be summarised as under:-

(i) Whether the provisions of the Code apply to execution proceedings under the 1993 Act?

(ii) Whether there is any distinction between the territorial jurisdiction of the Tribunal to adjudicate the claim of Banks and Financial Institutions and

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[9] **Balbir Kumar Paul** (supra)**; Tushar P. Shah** (supra)**; GSL (India) Ltd.** (supra)**; Sikka Paper Ltd.** v. **Indian Overseas Bank, 2015 SCC OnLine DRAT 46; Nathu K. Patel** v. **The Recovery Officer & Ors., W.P. (MD) No. 11148 of 2025 (Madras High Court, decided on 11.06.2025); Amish Jain** v. **ICICI Bank Ltd., 2012 SCC OnLine Del 4818; Harjinder Singh** (supra); and **Bizmart Projects Private Limited & Ors.** v. **Bank of Baroda & Ors., 2024 SCC OnLine Cal 6310**

[10] **Standard Chartered Bank** v. **MSTC Ltd., (2020) 13 SCC 618; Industrial Credit and Investment Corpn. of India Ltd.** v. **Grapco Industries Ltd., (1999) 4 SCC 710; United Bank of India** v. **Satyawati Tondon, (2010) 8 SCC 110; Sheela Gehlot** v. **Mohini Hardayal Singh, 2026 SCC OnLine SC 1578;** and **Kotak Mahindra Bank Ltd.** v. **A. Balakrishnan, (2022) 9 SCC 186**

the territorial reach of the Recovery Officer in executing the recovery certificate?

(iii) What is the scope and ambit of Section 19(23) of the 1993 Act and whether the same permits the Tribunal which has issued the recovery certificate to execute the same in relation to a property situate outside its local limits?

(iv) What are the parameters on which the Tribunal should exercise its discretion under Section 19(23) to transmit the recovery certificate to another Tribunal or Tribunals for execution?

(v) Whether the impugned judgment passed by the High Court can be sustained in the eye of law?

IN RE: ISSUE NO. (i)

APPLICABILITY OF THE CODE TO RECOVERY PROCEEDINGS

17. We propose to deal with Issue No. (i) by adverting to the object and purpose of the enactment of the 1993 Act, the provisions of the 1993 Act and the decisions of this Court.

(a) Object and purpose of enactment of the 1993 Act :-

18. Prior to the enactment of the 1993 Act, the Banks and Financial Institutions were required to pursue recovery proceedings

before the ordinary civil courts. The resulting delays and enormous pendency of litigation led to a substantial sum of public money remaining locked in unproductive assets, which adversely affected the financial system and the efficient utilisation of funds. The need for a specialised and expeditious mechanism for recovery of debts due to Banks and Financial Institutions had been recognised by the Tiwari Committee in 1981, which recommended the establishment of special tribunals following a summary procedure. Subsequently, the Narasimham Committee in 1991 also emphasised the importance of a specialised adjudicatory forum and speedy recovery as an essential component of financial sector reforms.

19. The magnitude of the problem was evident from the fact that, as on 30.09.1990, more than 15 lakh cases filed by the public sector banks and about 304 cases filed by the financial institutions were pending in various courts. The amounts involved were approximately Rs.5622 crores due to the public sector banks and Rs.391 crores due to the financial institutions.

20. In this backdrop, Parliament enacted the 1993 Act with the principal object of establishing specialised Debts Recovery

Tribunals and Debts Recovery Appellate Tribunals to ensure speedy adjudication and expeditious recovery of debts due to banks and financial institutions. The legislation was enacted to overcome the procedural delays inherent in ordinary civil litigation and to facilitate the productive circulation of public funds. It is not merely another forum for adjudication of the dues of the public sector banks and financial institutions, but is a specialised, expeditious and effective mechanism for adjudication and recovery of debts due to banks and financial institutions. The constitutional validity of the 1993 Act was upheld by this Court in ***Union of India*** *v.* ***Delhi High Court Bar Association***[11]. The 1993 Act has since been amended from time to time to strengthen the recovery machinery, notably by Act No. 1 of 2000, Act No. 30 of 2004 and Act No. 44 of 2016. The last of these, *inter alia*, enlarged the modes of recovery available to the Recovery Officer and enabled the bank to file its application where the account in which the debt is outstanding is maintained.

[11] **(2002) 4 SCC 275**

(b) <u>The Provisions of the 1993 Act</u>

21. Chapter IV of the 1993 Act deals with procedure of Tribunals. Section 19 provides for application to the Tribunals. Section 19(1) of the 1993 Act reads as under:-

> "**19**. **Application to the Tribunal.**—(1) Where a bank or a financial institution has to recover any debt from any person, it may make an application to the Tribunal within the local limits of whose jurisdiction—
>
> (a) the branch or any other office of the bank or financial institution is maintaining an account in which debt claimed is outstanding, for the time being; or
>
> (aa) the defendant, or each of the defendants where there are more than one, at the time of making the application, actually and voluntarily resides or carries on business or personally works for gain; or
>
> (b) any of the defendants, where there are more than one, at the time of making the application, actually and voluntarily resides or carries on business or personally works for gain; or
>
> (c) the cause of action, wholly or in part, arises:
>
> Provided that the bank or financial institution may, with the permission of the Debts Recovery Tribunal, on an application made by it, withdraw the application, whether made before or after the

commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004 for the purpose of taking action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), if no such action had been taken earlier under that Act:

Provided further that any application made under the first proviso for seeking permission from the Debts Recovery Tribunal to withdraw the application made under sub-section (1) shall be dealt with by it as expeditiously as possible and disposed of within thirty days from the date of such application:

Provided also that in case the Debts Recovery Tribunal refuses to grant permission for withdrawal of the application filed under this sub-section, it shall pass such orders after recording the reasons therefor."

22. By the Amendment Act No. 44 of 2016, sub-section (22A) was inserted in Section 19 with effect from 04.11.2016, which is indicative of legislative intent and provides for a legal fiction to treat the recovery certificate as a decree for the purposes mentioned therein. Section 19(22A) reads as under:-

"19(22A) Any recovery certificate issued by the Presiding Officer under sub-section (22) shall be deemed to be decree or order of the Court for the purposes of initiation of winding up proceedings against a company registered under the Companies Act, 2013

(18 of 2013) or Limited Liability Partnership registered under the Limited Liability Partnership Act, 2008 (9 of 2008) or insolvency proceedings against any individual or partnership firm under any law for the time being in force, as the case may be."

23. Section 22 of the 1993 Act deals with powers and procedure of the Tribunal and Appellate Tribunal. Section 22 reads as under:-

"22. Procedure and powers of the Tribunal and the Appellate Tribunal.—(1) The Tribunal and the Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Tribunal and the Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Tribunal and the Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

(e) reviewing its decisions;

(f) dismissing an application for default or deciding it *ex parte*;

(g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*;

(h) any other matter which may be prescribed.

(3) Any proceeding before the Tribunal or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860) and the Tribunal or the Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

(4) For the purpose of proof of any entry in the 'bankers books', the provisions of the Bankers' Books Evidence Act, 1891 (18 of 1891) shall apply to all the proceedings before the Tribunal or Appellate Tribunal."

24. The scheme of the 1993 Act brings out the following distinguishing features: (i) the Debts Recovery Tribunal is a statutory adjudicatory body and not a civil court, (ii) the proceedings before it are initiated by way of an application and

not by institution of a suit, (iii) the procedure prescribed before the Tribunal is neither rigid nor elaborate, and the Tribunal is vested with the flexibility to regulate its own procedure subject to adherence to the principles of natural justice, (iv) the Tribunal, upon adjudication of the claim of a bank or a financial institution, issues a recovery certificate specifying the amount due, and (v) the Recovery Officer proceeds to recover the amount due in accordance with the provisions of the 1993 Act.

Thus, the mechanism contemplated under the 1993 Act comprises two distinct stages, namely, adjudication of the claim by the Tribunal and execution of the recovery certificate through the Recovery Officer.

25. This Court in ***Grapco Industries Ltd.*** (supra), while interpreting the expression "shall not be bound by" used in Section 22 of the 1993 Act, held that the Code does not denude the Tribunal of the power to exercise powers analogous to those contained in the Code; rather, the Tribunal can travel beyond the Code subject to the requirement of compliance with natural justice. A two-Judge Bench of this Court in ***MSTC Ltd.*** (supra), while considering Sections 20, 22 and 34 of the 1993 Act, reiterated the aforesaid view and held that the 1993 Act is a

complete and exhaustive code and the provisions of the Code cannot be imported where they are inconsistent with the statutory scheme. It was held that Order XLVII Rule 7 of the Code does not apply to proceedings before the Tribunal, as Section 20 of the 1993 Act provides an appeal against every order of the Tribunal. Another two-Judge Bench of this Court in ***Satyawati Tondon*** (supra) held that the 1993 Act had created a special procedural mechanism for speedy recovery and had "freed" the Tribunals and the Appellate Tribunals from the procedural constraints of the Code.

26. Thus, by taking into account the object of the 1993 Act, the relevant provisions of the 1993 Act and the decisions of this Court, it is axiomatic that the provisions of the Code which are inconsistent with the scheme of the 1993 Act cannot be imported into the 1993 Act so as to curtail the powers of the Tribunal. The principles of the Code may, however, be drawn upon to aid and enable the Tribunal to exercise its powers in consonance with the purpose and provisions of the 1993 Act. For the aforementioned reasons, Issue No. (i) is answered by holding that the provisions of the Code do not apply to the

execution proceedings under the 1993 Act so as to restrict the powers of the Tribunal.

IN RE: ISSUE NO. (ii)
ADJUDICATION AND EXECUTION: DISTINCT TERRITORIAL FIELDS

27. Section 19(1) of the 1993 Act governs the territorial jurisdiction of the Tribunal for entertaining an original application instituted by a Bank or Financial Institution for recovery of its dues. A plain reading of the provision makes it evident that the situs of the mortgaged property is not one of the statutory criteria for determining the territorial jurisdiction of the Tribunal for entertaining an original application under Section 19(1) of the 1993 Act. The territorial jurisdiction of the Tribunal is determined by reference to statutory parameters expressly prescribed under Section 19(1) of the 1993 Act, which include the location of the relevant bank branch or office, the residence or place of business of the defendant, or the place where the cause of action arises wholly or in part.

28. There is a conscious omission of the situs of the mortgaged property as a criterion for determining the jurisdiction under Section 19(1) of the 1993 Act, in contrast with the jurisdiction of the Civil Court under Section 16 of the Code, wherein the

location of immovable property assumes significance for determining the territorial jurisdiction of the Civil Court. Thus, Section 19(1) contemplates a situation where the Tribunal may be required to deal with a property situated beyond its territorial limits. Section 19(13) of the 1993 Act, which enables the Tribunal to attach the property in the circumstances specified therein, also does not refer to the situs of the property. Section 19(22) provides for issuance of the recovery certificate by the Presiding Officer who has exercised the jurisdiction under Section 19(1) of the 1993 Act. The recovery certificate may, therefore, relate to properties of the defendant situated within or outside the territorial limits of the Tribunal which issues it.

29. The adjudication of the claim of a bank or financial institution and the execution of the recovery certificate are two distinct stages, though forming part of one statutory process. The territorial jurisdiction of the Tribunal to adjudicate the claim of the bank or financial institution is governed by Section 19(1) of the 1993 Act, whereas the execution of the recovery certificate by the Recovery Officer is governed by Chapter V of the 1993 Act, and its transmission to another Tribunal by Section 19(23).

This Court in ***Allahabad Bank*** *v.* ***Canara Bank***[12] recognised that the adjudication of liability and the recovery of the amount by execution of the certificate fall, respectively, within the exclusive jurisdiction of the Tribunal and the Recovery Officer. The location of an immovable property is not a relevant criterion while adjudicating a claim under Section 19(1) of the 1993 Act, whereas the same may have an impact on the execution of the certificate of recovery. Thus, there is a distinction between the territorial jurisdiction of the Tribunal in adjudicating the claim of the bank or financial institution and the territorial reach of the execution of the recovery certificate by the Recovery Officer of the Tribunal. Accordingly, the Issue No. (ii) is answered.

IN RE: ISSUE NO. (iii)
SCOPE OF SECTION 19(23)

30. At this stage, it is apposite to take note of Section 19(23) of the 1993 Act, which reads as under:-

> "19(23)-Where the Tribunal, which has issued a certificate of recovery, is satisfied that the property is situated within the local limits of the jurisdiction of two or more Tribunals, it may send the copies of the certificate of recovery for execution to such other Tribunals where the property is situated:

[12] **(2000) 4 SCC 406**

> Provided that in a case where the Tribunal to which the certificate of recovery is sent for execution finds that it has no jurisdiction to comply with the certificate of recovery, it shall return the same to the Tribunal which has issued it."

(A) <u>TEXTUAL FEATURES OF SECTION 19(23)</u>

31. The provision has five textual features which bear upon its construction. First, the power is conferred only upon "the Tribunal, which has issued a certificate of recovery". No other Tribunal can set the provision in motion, and the certificate holder cannot, by its own choice, determine whether the certificate is to be retained or transmitted. Secondly, the power arises when that Tribunal "is satisfied" as to the location of the property. Thirdly, what is sent are "the copies of the certificate of recovery". The Tribunal issuing the recovery certificate retains the same and remains in seisin of the recovery proceeding. Transmission does not divest such Tribunal of its jurisdiction but enables execution to proceed, simultaneously if need be, in another territory. Fourthly, the certificate may be sent only "to such other Tribunals where the property is situated". Fifthly, the proviso commands that a Tribunal to which the certificate is sent, if it "finds that it has no jurisdiction

to comply with the certificate of recovery", "shall return the same" to the Tribunal issuing the recovery certificate.

32. It is noteworthy that the expression "property" employed by the legislature in Section 19(23) of the 1993 Act is required to be read in the context of Section 13(2) of the General Clauses Act, 1897, which provides that words in the singular include the plural, unless there is anything repugnant in the subject or context. There is nothing repugnant in Section 19(23). On the contrary, a recovery certificate ordinarily covers several properties of the certificate debtors, as it does in the present case. The word "property" must, therefore, be read as "properties".

(B) <u>PURPOSIVE CONSTRUCTION</u>

33. Upon careful consideration of the statutory scheme, it is evident that Section 19(23) of the 1993 Act contemplates a mechanism for facilitating the execution of a recovery certificate in a case involving properties falling within the territorial jurisdiction of more than one Tribunal. Section 19(23) does not expressly bar the jurisdiction of the Tribunal which has issued the recovery certificate in dealing with the property situate outside its territorial limits. The conclusion that the local limits of the

Tribunal do not by themselves circumscribe the reach of its recovery mechanism is also the one which furthers the object of the 1993 Act. This Court has held that statutory Tribunals, though creatures of the statute, are vested by necessary implication with such incidental powers as are essential to give full effect to the jurisdiction expressly conferred on them.[13] A statute must be construed in the light of its scheme and purpose, and not in a manner which defeats them.[14] Therefore, Section 19(23) of the 1993 Act has to be construed in a manner which advances the object of the legislation, namely, expeditious and effective recovery of debts due to banks and financial institutions.

(C) "MAY" VERSUS "SHALL"

34. Now we advert to the contention whether the word "may" in Section 19(23) of the 1993 Act can be read as "shall". The words "may" and "shall" are not to be read in isolation. Whether a provision which uses the word "may" is discretionary or whether it casts a duty depends upon the context, the object of the enactment and the consequences which would follow from the

[13] **Allahabad Bank** (supra) and **Income Tax Officer** v. **M.K. Mohammed Kunhi, AIR 1969 SC 430**
[14] **RBI** v. **Peerless General Finance & Investment Co. Ltd., (1987) 1 SCC 424**

one construction or the other.[15] Ordinarily, "may" in a provision conferring a power signifies discretion. It is construed as "shall" only where the power is conferred for the benefit of a person who has a legal right to its exercise, so that the power is coupled with a duty to exercise it in a particular way. Equally, a provision which prescribes no consequence for its non-observance, and which relates to the convenience of administration, is ordinarily regarded as directory. In ***Bachahan Devi*** *v.* ***Nagar Nigam, Gorakhpur***[16], this Court summarised the position thus:

> "**18.** … As a general rule, the word "may" is permissive and operative to confer discretion and especially so, where it is used in juxtaposition to the word "shall", which ordinarily is imperative as it imposes a duty. Cases, however, are not wanting where the words "may", "shall" and "must" are used interchangeably. In order to find out whether these words are being used in a directory or in a mandatory sense, the intent of the legislature should be looked into along with the pertinent circumstances."

The same principle was reiterated in ***Vidarbha Industries Power Ltd.*** *v.* ***Axis Bank Ltd.***[17], where it was held that the

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[15] **Julius** v. **Bishop of Oxford, (1880) 5 App Cas 214; State of U.P.** v. **Babu Ram Upadhya, AIR 1961 SC 751; Official Liquidator** v. **Dharti Dhan (P) Ltd., (1977) 2 SCC 166; Sharif-ud-Din** v. **Abdul Gani Lone, (1980) 1 SCC 403**

[16] **(2008) 12 SCC 372**

[17] **(2022) 8 SCC 352**

word “may” is ordinarily directory, but the prima facie presumption may be rebutted by other considerations, such as the scope of the enactment and the consequences flowing from the construction.

35. Applying these tests, we find that the word "may" in Section 19(23) cannot be read as "shall", for the following reasons:

(i) The legislature has used "may" in the main part and "shall" in the proviso. The contrast shows that Parliament used the two words advisedly. Where it intended compulsion, it said so. The proviso compels the transferee Tribunal; it does not compel the issuing Tribunal to transmit.

(ii) The 1993 Act does not provide for any consequence for non-transmission of the certificate. Had Parliament intended that execution by the issuing Tribunal against property beyond its limits would be a nullity, it would have said so in clear terms.

(iii) The object of the 1993 Act is speedy recovery. A mandatory reading would compel the Tribunal to split the certificate among several Tribunals whenever the securities lie at different places, irrespective of the stage of execution or the steps already taken. This would cause delay, multiply

proceedings, expose the process to avoidable objections and frustrate the object of the Act. Execution proceedings, as this Court has emphasised, must not be permitted to become a means of delaying the fruits of an adjudication.[18]

36. At the same time, the discretion conferred by Section 19(23) is not unfettered. It is a judicial discretion, which must be exercised according to the rules of reason and justice, not according to private opinion; according to law, and not humour[19]. It must be legal and regular, and not arbitrary, vague or fanciful[20]. It follows that the discretion vests in the Tribunal, that is, the Presiding Officer, and not in the Recovery Officer, and that it cannot be exercised by the certificate holder by the mere filing of an affidavit before the Recovery Officer.

(D) DIVERGENCE OF OPINION AMONGST THE HIGH COURTS

37. The learned Amicus Curiae has brought to our notice the divergence of opinion amongst the High Courts. On one side are the decisions of the Gujarat High Court in ***Balbir Kumar Paul*** (supra) and of the Bombay High Court in ***Tushar P. Shah*** (supra), followed in ***GSL (India) Ltd.*** (supra). In ***Balbir Kumar***

[18] **Rahul S. Shah** v. **Jinendra Kumar Gandhi, (2021) 6 SCC 418**
[19] **Sharp** v. **Wakefield, [1891] AC 173**
[20] **Aero Traders (P) Ltd.** v. **Ravinder Kumar Suri, (2004) 8 SCC 307**

Paul (supra), a Division Bench reversed a learned Single Judge who had held that the certificate ought to have been sent to the Tribunal where the property was situated. The property there was situated at Bulandshahr in Uttar Pradesh, wholly outside the limits of DRT, Ahmedabad. In ***Tushar P. Shah*** (supra), the property was situated at Vapi in Gujarat, wholly outside the limits of DRT-II, Mumbai. The Bombay High Court in ***Tushar P. Shah*** (supra), concurring with the view of the Gujarat High Court, held that the word "may" in Section 19(23) is not to be read as "shall", that the 1993 Act contains no counterpart of Section 39(4) of the Code, that ***Mohit Bhargava*** (supra), being a decision under the Code, does not govern the Tribunal, and that a mandatory reading would delay execution under a statute meant for speedy recovery. In ***GSL (India)*** (supra), which arose under Section 17 of the 2002 Act, the Bombay High Court reiterated that the issuing Tribunal may either execute the certificate itself against property outside its jurisdiction or send it to the Tribunal where the property is situated, and expressly disagreed with the contrary view of the Delhi High Court. The same view has been taken by the Debts Recovery Appellate

Tribunal, Delhi in ***Sikka Papers Ltd.*** (supra) and by a Division Bench of the Madras High Court in ***Nathu K. Patel*** (supra).

38. On the other side are the decisions of the Delhi High Court in ***Amish Jain*** (supra), of the Punjab and Haryana High Court in ***Harjinder Singh*** (supra) and of the Calcutta High Court in ***Bizmart Projects Private Limited*** (supra), in which a view has been taken that the Tribunal which issues the recovery certificate is mandatorily required to transfer the same to the Tribunal within whose jurisdiction the property is situate. In ***Harjinder Singh*** (supra), the High Court drew upon Section 39(4) of the Code and the decision of this Court in ***Mohit Bhargava*** (supra). The Madras High Court has taken two conflicting views, namely in the impugned judgment and in ***Nathu K. Patel*** (supra).

39. The decisions which treat transmission as mandatory rest substantially on Section 39(4) of the Code and on ***Mohit Bhargava*** (supra). That decision was rendered under the Code. This Court held that the conflict of opinion as to whether the court which passed a decree could itself execute it against property outside its jurisdiction was set at rest by sub-section (4) of Section 39, inserted by Act No. 22 of 2002 with effect from

01.07.2002. The 144th Report of the Law Commission of India, placed before us by the learned Amicus Curiae, shows that the conflict arose because the word "may" in Section 39 had been read by some High Courts as permitting such execution, and that the Commission recommended an express provision to the contrary. Where Parliament intended a territorial restriction on execution under the Code, it enacted one expressly. No such provision is found in the 1993 Act and, for the reasons assigned while answering Issue No. (i), it cannot be imported.

40. We may also notice why the submission of the learned Amicus Curiae cannot be accepted without qualification. If the issuing Tribunal could execute against properties anywhere as a matter of course, without any judicial consideration of the question, the choice would, in practice, rest with the certificate holder, since the forum of adjudication under Section 19(1) is chosen by it. The certificate debtor, and third parties such as tenants, occupants, claimants and intending purchasers, might be compelled to contest attachment, valuation, possession and sale before a distant forum, before which the appeal under Section 30 would also lie. The Recovery Officers of metropolitan Tribunals, where the bulk of the applications are filed, would

have to carry out local inquiries, affixation, valuation, possession and auction in distant districts, at a cost ultimately borne by the certificate debtor. There would also be a risk of conflicting proceedings where the same property is under attachment by the Recovery Officer of the local Tribunal at the instance of another creditor. These difficulties are avoided not by reading "may" as "shall", but by recognising that the discretion is a judicial discretion of the Tribunal, to be exercised on the parameters laid down hereinafter.

41. For the foregoing reasons, Section 19(23) of the 1993 Act permits the Tribunal to execute a recovery certificate issued by it in relation to a property situate outside its local limits, and that the word "may" in Section 19(23) confers a judicial discretion on the Tribunal to retain the execution or to transmit the certificate, which is to be exercised on the parameters set out hereinafter. In the light of the construction which we have placed on Section 19(23) of the 1993 Act, we approve the view taken by the Gujarat and Bombay High Courts, subject to the parameters which we lay down hereinafter, and do not agree with the view expressed by the High Courts of Delhi, Punjab & Haryana and Calcutta.

42. Accordingly, the Issue No. (iii) is answered.

IN RE : ISSUE NO. (iv)
PARAMETERS FOR RETENTION OR TRANSMISSION

(A) RELEVANT CONSIDERATIONS

43. In determining whether the recovery certificate should be transmitted to another Tribunal or whether the execution should be continued by the Recovery Officer attached to the issuing Tribunal, several relevant considerations would necessarily arise. The question is not merely one of territorial jurisdiction. It involves several practical and procedural considerations which may affect the efficacy of the recovery mechanism. For instance, the Recovery Officer attached to the Debts Recovery Tribunal at Delhi may face difficulties in proceeding against a property situated in Mumbai, especially when physical possession, removal of occupants and delivery of possession to the auction purchaser are required.

44. There is a difference between the jurisdiction of the Tribunal and the territorial reach of the Recovery Officers. Where different properties are situated in different jurisdictions, separate Recovery Officers may become involved, which may give rise to difficulties concerning the priority and sequence of attachment, common valuation standards, coordination of

auction dates, disclosure of amounts realised, adjustment of partial recoveries, calculation of the outstanding balance and prevention of recovery exceeding the amount specified in the recovery certificate.

45. A property may also be subject to multiple claims and proceedings, including prior attachments, claims of other secured creditors, statutory dues, claims of tenants or occupants, pending litigation, and insolvency or liquidation proceedings. A Recovery Officer situated in one State may encounter practical difficulties in taking possession of a property situated in another State. Local police assistance, revenue records, municipal records, physical inspection and identification of occupants may be required. These practical difficulties may justify transmission or local execution assistance, depending upon the facts of the case.

46. The practical consideration in transmitting a recovery certificate for execution would be to ensure that the transmission would facilitate the possession, valuation and sale of the assets more effectively. The practical and procedural difficulties can be understood with reference to the following illustrations: -

Illustration (A): A bank obtains a recovery certificate for Rs.100 crores from the Debts Recovery Tribunal at Mumbai. The certificate debtor owns (1) a commercial building in Chennai, which is let out to several tenants; (2) an industrial unit in Bengaluru, which is a running concern; and (3) a vacant residential plot in Hyderabad. All three properties are available for recovery. The Tribunal, in such a case, should consider whether separate execution proceedings are necessary or whether a coordinated execution can be undertaken through the Recovery Officer of the issuing Tribunal with appropriate local assistance. The vacant plot at Hyderabad may well be sold by the Recovery Officer at Mumbai with local assistance. The tenanted building in Chennai, which may involve claims of tenants and proceedings for possession at a great distance, may call for transmission to the Tribunal having jurisdiction there. The industrial unit at Bengaluru may require a decision whether it should be sold as a going concern. If separate Tribunals are entrusted with execution, the issuing Tribunal should ensure that: (i) the total recoverable amount is clearly specified; (ii) each executing authority is informed of the amounts realised by the others; (iii) the outstanding liability is

periodically reconciled; (iv) there is no duplication of recovery; and (v) the interests of all the creditors and affected parties are protected.

Illustration (B): A large industrial undertaking consists of contiguous parcels of land situated partly within the territorial jurisdiction of the Debts Recovery Tribunal at Mumbai, and partly within the territorial jurisdiction of another Tribunal. The undertaking may be commercially indivisible, and its separate sale may substantially diminish its value. In such a case, the Tribunal must consider whether the properties are capable of being treated as one integrated asset for execution purposes and whether separate execution proceedings would lead to conflicting orders or diminution in value. Ordinarily, such an undertaking would be best sold as a whole by a single executing authority.

Illustration (C): A property situated in another State is vacant, undisputed and identifiable. In such a case, where the execution only requires valuation, attachment and sale, the same can be coordinated through the Recovery Officer and the local authorities, and no transmission of the recovery certificate may be required.

Illustration (D): The recovery certificate is issued by the Debts Recovery Tribunal at Chennai. The only property available is the residential house of the certificate debtor at Coimbatore, in which he resides with his family. A co-owner disputes the extent of the debtor's share, and a third-party claims to be in possession as a tenant. The execution would require local inquiry into the claims, eviction of the occupants and police assistance. In such a case, the Tribunal would ordinarily transmit the certificate to the Tribunal within whose limits the house is situated.

Illustration (E): The property covered by the certificate has already been attached at the instance of another creditor by the Recovery Officer of the Tribunal within whose limits it is situated. The issuing Tribunal should ordinarily transmit the certificate, so that the competing claims are dealt with by one executing authority and conflicting orders are avoided.

47. The Tribunal must examine whether the property is situate wholly or partly within the territorial jurisdiction of another Tribunal, whether the execution proceedings require physical intervention at the location of the property, whether attachment, possession, valuation and sale can be effectively

undertaken through the existing recovery machinery, and whether transmission would facilitate execution or, instead, result in avoidable multiplicity and delay. It would also be necessary to bear in mind that, where the properties forming part of the same recovery certificate are situate in different territorial jurisdictions, uncoordinated execution proceedings may result in duplication of efforts, inconsistent orders and difficulties in accounting for the amounts realised. The statutory mechanism should, therefore, be administered in a manner which ensures coordination amongst the executing authorities and prevents recovery in excess of the amount specified in the recovery certificate.

48. We are, therefore, of the considered view that the discretion under Section 19(23) of the 1993 Act must be exercised upon an objective assessment of the relevant circumstances, supported by reasons. Neither the geographical location of the property, viewed in isolation, nor the convenience of one of the parties can constitute the sole basis for determining the appropriate course of execution. The paramount consideration must be whether the proposed course would facilitate lawful, effective and expeditious enforcement of the recovery certificate,

with due regard to the rights of the certificate debtor and of third parties.

49. The ultimate object of the provision is to ensure that territorial considerations do not frustrate or unduly impede the recovery mechanism, while simultaneously ensuring that execution is undertaken by an authority competent in law to do so, and in a manner which is fair to the certificate debtor.

(B) THE STRUCTURED TEST

50. A structured test which could be applied by every Tribunal whenever the question of transmission of a recovery certificate arises can be stated as follows:

(i) The Tribunal should determine the exact location, the nature of ownership of the property and the question of territorial jurisdiction.

(ii) The Tribunal must identify the nature of the execution, namely, it should ascertain whether the same requires attachment, possession, appointment of a receiver, valuation or sale, and whether the property is occupied, tenanted, the residential house of the certificate debtor, or the subject of claims by third parties or of attachment by another Tribunal.

(iii) The Tribunal should examine whether its existing Recovery Officer can effectively execute the certificate with appropriate local assistance.

(iv) The Tribunal must consider the balance of convenience, expedition, cost, avoidance of multiplicity, the stage of the execution, the conduct of the parties and protection against prejudice to any of the parties or to third parties.

(v) The Tribunal must pass a reasoned order while deciding the issue whether the execution should be retained or transmitted.

(C) <u>SAFEGUARDS</u>

51. In addition, the Debts Recovery Tribunals shall observe the following safeguards:

(i) The decision under Section 19(23) shall be taken by the Tribunal ordinarily at the time of issuing the recovery certificate or at the earliest thereafter, and in any event before any coercive step is taken against a property situated outside the limits of the Tribunal.

(ii) The decision shall be taken after notice to the certificate holder and the certificate debtors. Either party may apply for

such a decision, and the Tribunal may also act on its own motion. Such an application shall be decided expeditiously.

(iii) The Recovery Officer attached to the Tribunal which has issued the recovery certificate shall scrupulously comply with Chapter V of the 1993 Act and the Second Schedule to the Income-tax Act, 1961.

Accordingly, Issue No. (iv) is answered.

IN RE: ISSUE NO. (v)
APPLICATION TO THE PRESENT CASE

52. In the instant case, the Bank had filed an application under Section 19 of the 1993 Act before the DRT, Madurai. On the application of the Borrower, the proceedings were transferred to DRT-III, Chennai. The DRT, Chennai allowed the claim of the Bank and issued the recovery certificate, which was forwarded to the Recovery Officer attached to it. Admittedly, the properties are situated at Tiruchirappalli, within the territorial jurisdiction of DRT, Madurai, and it is not in dispute that the Borrower, and in the case of the Schedule A property the legal representatives of his late wife, are the owners of the same.

53. Both the properties are situated in a single district in the same State, and the proclamation of sale is to be made in the same language. The Recovery Officer, DRT, Chennai has already

attached both the properties, registered the attachments with the Sub-Registrar, K. Sathanur, and taken possession of the Schedule B property on 06.01.2023. There is no material on record to indicate that either property is in occupation of a third party, that it is the subject of any prior attachment by another Tribunal, or that it has been encroached upon by anyone. The identity of the properties is not in dispute. The original application was instituted at Madurai and was transferred to Chennai at the instance of the Borrower himself, and the proceedings have been pending for sixteen years. What remains is the valuation and sale of the properties and possession of the Schedule A property, which is the residential house of the Borrower and his family. These steps can be carried out by the Recovery Officer attached to DRT, Chennai with appropriate local assistance, subject to the safeguards laid down above and to the protection of the legal representative who is stated to have an intellectual disability. Therefore, the High Court erred in holding that DRT, Madurai alone has jurisdiction and in directing transmission of the recovery certificate to the DRT, Madurai. Accordingly, Issue No. (v) is answered in the negative.

It is held that the impugned judgment passed by the High Court cannot be sustained.

OTHER CONTENTIONS OF THE BORROWER

54. Insofar as the submission made by the Borrower, who appeared in person, that the Recovery Officer of DRT, Chennai lacked territorial jurisdiction, is concerned, suffice it to say that a person who takes such a plea must also demonstrate that the lack of territorial jurisdiction has resulted in prejudice to him and in a failure of justice.[21] The Borrower was unable to demonstrate any prejudice caused to him, particularly when it was at his own instance that the proceedings were transferred to Chennai. The Borrower has also raised the following contentions, namely, (i) the recovery certificate is void as it was issued after the death of his wife, (ii) the proceedings abated since the legal representatives were not brought on record within time, (iii) the proceedings are a nullity qua a legal representative who is said to have a certified intellectual disability of 70% and for whom no guardian was appointed, and (iv) the proceedings are vitiated by fraud. The first of these contentions was considered and rejected by the High Court, and

[21] **Kiran Singh** (supra)**; Harshad Chiman Lal Modi** v. **DLF Universal Ltd., (2005) 7 SCC 791; Mantoo Sarkar** v. **Oriental Insurance Co. Ltd., (2009) 2 SCC 244**

the Borrower has not challenged that finding before this Court; a review application filed by him is stated to be pending before the High Court. The remaining contentions do not arise from the impugned judgment, which is confined to the question of territorial jurisdiction. We, therefore, do not propose to adjudicate upon these contentions in this appeal. It is relevant to note that the Borrower did not challenge the order of DRT, Chennai dated 16.09.2020, and that the Recovery Officer has already brought the legal representatives on record and issued a fresh demand notice on 25.11.2022. The allegations of fraud are, in any event, bald and unsupported by particulars. The plea of non-joinder of the Recovery Officer is also without substance, since he is an officer of the Tribunal who discharges statutory functions and has no personal interest in the outcome.

CONCLUSIONS

55. We summarise our conclusions as follows:

(i) The provisions of the Code do not apply to execution proceedings under the 1993 Act so as to restrict the powers of the Tribunal.

(ii) The territorial jurisdiction of the Tribunal to adjudicate is governed by Section 19(1), whereas the execution of the recovery certificate is governed by Chapter V and its transmission by Section 19(23) of the 1993 Act. Thus, there is a distinction between the territorial jurisdiction of the Tribunal and the territorial reach of the Recovery Officer.

(iii) The Tribunal which has issued the recovery certificate has the authority to execute the same in relation to properties situated outside its local limits. The word “property” in Section 19(23) includes “properties”, and the provision is attracted whenever any property covered by the certificate is situated outside those limits.

(iv) The word "may" in Section 19(23) cannot be read as "shall". It confers a judicial discretion on the Tribunal, and not an option on the certificate holder or the Recovery Officer.

(v) The Tribunals should be guided by the structured test and safeguards laid down by us in paragraphs 50 and 51 of this judgment while deciding the issue of transmission of recovery certificates.

(vi) The decisions in ***Balbir Kumar Paul*** (supra), ***Tushar P. Shah*** (supra) and ***GSL (India) Ltd.*** (supra) of the Gujarat and

Bombay High Courts correctly interpret Section 19(23) of the 1993 Act, subject to the parameters laid down by us, and we approve of the view taken by them. The decisions in ***Amish Jain*** (supra), ***Harjinder Singh*** (supra) and ***Bizmart Projects*** (supra) of the Delhi High Court, Punjab & Haryana High Court and Calcutta High Court do not lay down the correct law.

DIRECTIONS

56. For the reasons aforesaid, we hold that the High Court erred in holding that DRT, Madurai alone has jurisdiction to execute the recovery certificate. DRT, Chennai, which adjudicated the claim of the Bank on the transfer of the proceedings and which issued the recovery certificate, is competent to execute it through its Recovery Officer against the mortgaged properties at Tiruchirappalli, and its retention of the execution is supported by a proper and just nexus.

57. We accordingly pass the following order:

(i) The judgment dated 22.08.2025 of the High Court of Judicature at Madras, Madurai Bench in W.P. (MD) No. 5840 of 2023 is quashed and set aside.

(ii) The recovery proceedings in pursuance of Recovery Certificate No. 14 of 2022, including the attachment order dated 13.01.2023 and all consequential steps, are restored.

(iii) The Recovery Officer, DRT-III, Chennai shall proceed with the execution in accordance with law from the stage at which it was interdicted, in compliance with the structured tests and the safeguards laid down in paragraphs 50 and 51 above, and shall endeavour to complete it expeditiously, preferably within six months from the date of receipt of a copy of this judgment.

58. In the result, the appeal is allowed. There shall be no order as to costs.

59. We place on record our appreciation for the able assistance rendered by Ms. Devanshi Singh, learned Amicus Curiae.

60. Pending application(s), if any, shall stand disposed of.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ALOK ARADHE]

NEW DELHI;
NOVEMBER 27, 2026.