

(2017) 01 SC CK 0104

SUPREME COURT OF INDIA

Case No: Writ Petition (Civil) No. 573 of 2003

Centre For Public Interest
Litigation

APPELLANT

Vs

Housing & Urban Development
Corporation Ltd.

RESPONDENT

Date of Decision: Jan. 3, 2017

Citation: (2017) 122 ALR 362 : (2017) 2 ALT 28 : (2017) 1 DRTC 469 : (2017) 1 JT 458 : (2017) 1 LAR 87 : (2017) 135 RD 291 : (2017) 1 RJ 150 : (2017) 1 Scale 268 : (2017) 3 SCC 605 : (2017) 1 SCR 401

Hon'ble Judges: T.S. Thakur, CJ; A.M. Khanwilkar, J; Dr. D.Y. Chandrachud, J

Bench: Full Bench

Advocate: Prashant Bhushan, Advocate, for the Petitioner; Ms. Ruby Singh Ahuja, Advocate, for the Respondent

Final Decision: Dismissed

Judgement

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

2. At present, thirty four Debt Recovery Tribunals and five Appellate Tribunals are functioning in the country. In financial year 2015-16 these Tribunals disposed of about 16,000 original applications involving a total amount of Rs. 34,000 crores. Since their inception until 31 October 2015, the Tribunals had disposed of 1,34,433 original applications leading to the recovery of an amount of Rs. 70,725 crores. The

Tribunals are also vested with the jurisdiction to entertain securitization applications under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

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

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

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

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

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

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

required for the efficacious functioning of the Tribunals;

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

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

6. The affidavit shall be filed within a period of four weeks from today. We clarify that this direction for the filing of a further affidavit shall not in any manner affect the functioning of the Committee which has already been constituted by the Union government and whose report is awaited.