

IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT CHENNAI

Dated the 09th of April, 2026

PRESENT: Hon'ble Mr. Justice G. Chandrasekharan
CHAIRPERSON

RA :106/2013

(OA No.797/1997 on the file of DRT, Bangalore)

Between

1. M/s. Canara Bank
S.I.A. Branch
No.91, Infantry Road
Bangalore-560 001.

Presently handled
by ARM Branch
Residency Road, Bangalore.

2. M/s. Indian Overseas Bank
No.97/1, Residency Road
Bangalore-560 025.

Appellants

And

1. M/s. Spun Silk (India) Ltd.
Regd. Office, Bandamanahalli
Chickballapur Taluk
Kolar District and Corporate Office,
No.38, Victoria Layout, 3rd Cross
Bangalore-560 047.

2. Mr. P. C. Jayaraman
No.61, Usman Road
T. Nagar, Madras-600 017.

3. Sri B.K. Tandon
1310, Brigade Towers
135, Brigade Towers
Bangalore.

4. Sri P.C. Rama Murthy
North Usman Road
T. Nagar, Madras-17.
(expired during the pendency of OA and LRs not impleaded)

5. Sri B.V. Srinivasan
No.46, Main Bazar Road
Kollegal-571 440
Mysore District.

6. M. Syed Mehboob Pasha
(Since deceased by LRs)

6(a) Father's father, Sri M. Syed Abbas
R/a Railway Station Road
Siddlagatta, Chikkaballapur Taluk
Kolar District, Karnataka.

6(b) Mother, Mrs. Mehaboob Bi
R/a Railway Station Road
Siddlagatta, Chikkaballapur Taluk
Kolar District, Karnataka.

6(c) Wife, Mrs. Mubin Taj
R/a Railway Station Road
Siddlagatta, Chikkaballapur Taluk
Kolar District, Karnataka.

6(d) Daughter, Saizian
Minor rep. by her guardian
Mubin Taj
R/a Railway Station Road
Siddlagatta, Chikkaballapur Taluk
Kolar District, Karnataka

7. Sri M.S.A. Aleem
No.36, D'Costa Square
Cooke Town
Bangalore-560 005.

8. Sri Syed Abbas
Railway Station Road
Siddlagatta
Chikkaballapur Taluk
Kolar District, Karnataka.

9. Industrial Finance Corporation of India
I.F.C. Bhavan
Narasimharaja Square
Cubbonpet Main Road
Bangalore-560 002.

...Respondents

Counsel for Appellants : M/s. R. Umasuthan
Counsel for Respondent No.2 : M/s. A.S.Kailasam& Associates

ORDER

1. Aggrieved against the order passed by Learned Presiding Officer, DRT, Bangalore on 14.05.2009 in OA 797/1997, this Appeal is filed.

1.1 Appellant Banks filed the OA 797/1997 to issue Recovery Certificate against Respondents 1 to 8, first Respondent being the principal borrower and Respondents 2 to 8, being the guarantors, to pay a sum of Rs.6,50,47,499.19p along with the compounded interest at

22.75% p.a. from 15.06.1997 till the date of payment, with costs, jointly and severally, and for other reliefs as detailed in the relief column in the Original Application.

2. The case of the Appellants, in brief, is that, under the consortium lending arrangement, the Appellants sanctioned loan facility to the first Respondent. The Respondents 2 to 8 are the Directors of the first Respondent Company and guarantors. During the pendency of the proceedings, 6th Respondent died, and therefore, his Legal Representatives (LRs) are impleaded as Defendants 6(a) to 6 (d) in the OA.

2.1 The first Appellant (Canara Bank) extended Term Loan, Overdraft facility and LC, aggregating to Rs.25 Lakhs to the first Respondent, on 07.08.1982. Respondents 2 to 8 stood as guarantors. Second Appellant (the Indian Overseas Bank) extended Term Loan, Overdraft facility and LC aggregating to Rs.24.28 Lakhs to the first Respondent, on 15.03.1984. The Respondents 2 to 8 stood as guarantors for this loan.

2.2 On 01.12.1987, the Appellants entered into a consortium agreement and enhanced the financial facility to the first Respondent from the existing limit of Rs.49.28 Lakhs to 1.20 Crores. The quantum of lending between the Appellants made to the 1st Respondent was in the ratio of 88.63:11.37. During 1989, the first Respondent had become a sick company, and it was referred to BIFR under the provisions of the SICA Act for rehabilitation. As per the rehabilitation package suggested by BIFR, the first Appellant sanctioned the additional financial facility to the extent of Rs.276.05 Lakhs vide Sanction Letter dated 05.10.1991. The second Appellant sanctioned the additional financial facility of Rs.65.19 Lakhs. The first Respondent executed the common loan and security documents in favour of the Appellants, on 10.01.1992. Respondents 2 to 8 executed deeds of personal guarantee in favour of Appellants for prompt and due repayment of financial facilities. First Respondent defaulted in repaying the amounts. Therefore, the Original Application was filed.

2.3 The case of the Respondents 2 to 5 through their independent reply statements filed by Respondents 2, 4 and 3 & 5, in brief, is that, the Banks try to fasten the liability on these Respondents on the basis of the Letter dated 07.08.1982 and an enclosed Guarantee Letter of even dated 07.08.1982 and Letter dated 10.01.1992 and an enclosed Guarantee letter of even dated 10.01.1992. The documents produced by the Appellants at Annexure 27, are forged documents. The signature in these documents is not that of the 2nd Respondent. The claim of Rs.6 Crores and interest on the basis of the Letter of Guarantee dated 10.01.1992 is untenable. As early as 26.09.1992, the 2nd Respondent denied the execution of these documents. The deed of guarantee dated 07.08.1982 is insufficiently stamped and inadmissible in evidence and it is not a continuing guarantee. It ceased to have effect after 06.08.1985.

2.4 The Respondent No.4 had also taken the similar defence.

2.5 Respondents 3 and 5 claimed that they have not executed the Guarantee Bonds dated 10.01.1992 and their signatures in these documents are forged. The earlier loan was rescheduled and when the fresh loan was sanctioned, no guarantee was offered by these Respondents. Their signatures in the Guarantee Bonds dated 10.01.1992 are forged. It was established by the statement of the Auditor, Mr. Arun Kumar.

3. During the enquiry before Learned Presiding Officer, the Appellants produced Exhibits A1 to A38, and Respondents produced Exhibits D1 to D5 and Exhibits C1 to C3. On considering the oral and documentary evidence, Learned Presiding Officer based on the handwriting expert's opinion and evidence of Auditor, Mr. Arun Kumar, found that the signature of Respondent No.2 is forged, and thus, Defendants 2 to 5 had not executed any Guarantee Bonds. In this view of the matter, Learned Presiding Officer allowed Original Application against Respondents 1, 7 and 8 and

dismissed the claim against Respondents 2 to 6 and 9. As against the dismissal of the claim against Respondents 2 to 6 and 9, this Appeal is filed.

4. Learned Counsel for Appellants submitted that the Appellants produced the documents to show that the loan facilities were availed by the first Respondent from the Appellants, and for the said loan facilities availed, the Respondents 2 to 8 stood as guarantors. In view of the death of Respondent No.6, his LRs were brought on record and impleaded as Respondents. Respondent No.9 is only a formal party. Since the Respondent No.9 has also extended the loan facilities to the first Respondent, Respondent No.9 is impleaded on the basis of *pari passu* agreement between the Appellants and Respondent No.9.

5. It is the contention of Learned Counsel for Appellants that Respondents 2 to 8 had offered their personal guarantees when the loan facilities were availed, prior to the first Respondent being declared a sick company, and when

the loan facility was extended for restructuring also, the Respondents executed the necessary documents, particularly, the personal guarantee documents. Learned Presiding Officer, dismissed the claim against Respondents 2 to 6 on the ground that as per the handwriting expert's opinion that the signature of the Respondent No.2 is forged. There is no handwriting expert opinion available with regard to the signatures of Respondents 3 to 6. The Auditor, Mr. Arun Kumar, and the Respondents 2 to 6 colluded together and now refuting their signatures to avoid the loan repayment. The criminal complaint in this regard was given and it is still pending.

6. In reply, Learned Counsel for Respondent No.2 submitted that it is clearly established before the Tribunal that the guarantee document pertaining to Respondent No.2 is forged. No eyewitness was examined to show that the Respondent No.2 had signed in the guarantee documents. Further, no confirmation letter was obtained from the guarantors regarding the guarantee deed. Even as per the

claim made in the Original Application, there is an admission that the Respondent No.2 and other Respondents had not visited the Bank for execution of the guarantee deed. The signatures of the Respondent Nos.2 to 5 said to have been obtained through the Auditor, Mr. Arun Kumar. However, Mr. Arun Kumar denied having obtained signatures from Respondents 2 to 5. Therefore, it was established beyond doubt that the Respondent Nos.2 to 5 had not executed any guarantee documents after restructuring of the loan. Therefore, the Learned Presiding Officer rightly dismissed the claim against them.

7. Considered the rival submissions and perused the records.

8. The scope of this Appeal is whether the dismissal of the claim of the Appellants against the Defendants 2 to 6 is justified. The Learned Presiding Officer, DRT, Bangalore rejected the claim of the Appellants against the Defendants 2 to 6 on the following grounds:-

i) The signature of the Defendant No.2 in the Guarantee Bond is a forged signature. For reaching this conclusion, the Tribunal relied on the opinion of the handwriting expert marked as Exhibits C1 to C3, wherein it was opined that the person who wrote the admitted signature marked Exhibits A1 to A18 did not write the questioned signatures marked as Q1 to Q11.

ii) Bank claims that the Guarantee Bonds were executed based on the signatures obtained by the Auditor, Arun Kumar from the Defendants 2 to 5 and subsequently produced to the Bank, but this claim was disputed by the Defendants. The Auditor, Arun Kumar, in his evidence, stated that he did not meet Defendants 2 to 6 and obtain their signatures. Thus, Learned Presiding Officer concluded that the Defendants 2 to 5 have not visited the Bank and signed in the Guarantee Bonds.

iii) A criminal complaint had been lodged against the promoter of the company for commission of mischief.

iv) During the pendency of the proceedings, the Defendant No.4 died, and the claim against him stood dismissed as no steps were taken to implead the LRs of deceased Defendant No.4.

v) No specific evidence was let in against the Defendant No.6 and his LRs, and therefore, the claim against them was held as not proved.

9. A perusal of the documents and evidence shows that the borrowing by the first Respondent is not disputed. The loan documents were duly executed. We are now concerned with the guarantee offered by the Defendants 2 to 6. The Guarantee Bonds executed by the Defendant Nos.8, 3 and 7 on 10.05.1984 have been marked as Exhibits A16, A17 and A18. The copies of the Guarantee Bonds dated 07.08.1982, executed by Defendant Nos. 2, 4, 5 and 7 was produced as Exhibit A24. The copies of the Guarantee Bonds executed by

Defendant Nos.7, 8 and 3 were marked as Exhibits A25, A26 and A27. The copy of the Guarantee Bond dated 08.02.1983 executed by Defendant Nos. 7 and 8 was marked as Exhibit A28. Copy of the Guarantee Bond dated 10.01.1992 executed by Defendant Nos. 2 to 8 was produced as Exhibit A29. The copy of the complaint lodged by the Bank at Vivek Nagar Police Station on 12.08.1993 was marked as Exhibit A31. As per the said complaint, the Bank alleged that, at the request of the company and its directors, the guarantee papers were handed over to the Auditor, M.S. Arun Kumar, Chartered Accountant, who was liaising on behalf of the company and that Mr. Arun Kumar subsequently delivered the signed guarantee papers to the Bank. Letters from B.K. Tandon, P.C. Ramamurthy and Mr. P.C. Jayaraman stated that the said signatures in the guarantee documents are alleged to be forged, and in the said background, this complaint was lodged.

10 The evidence of Mr. Arun Kumar shows that he did not obtain the signatures from Defendant Nos. 2 to 5.

Ordinarily, obtaining signatures in any loan document, particularly, a guarantee document, is primarily the duty of the Bank's officials. The Bank cannot just ask a third party, including an auditor cum liaison officer for the borrower, to get the signatures in the guarantee documents from the Directors of the borrowing company. The alleged signatories to the guarantee documents now dispute the guarantee documents stating that they did not sign the documents and their signatures are forged. It was proved by the handwriting expert that the 2nd Defendant's signature is forged. There is no corroborative evidence to prove that D2 to D5 had signed the Guarantee Bonds. In the light of the evidence available, wherein the signatures of Defendant Nos. 2 to 5 on the Guarantee Bond dated 10.01.1992 have not been proved, this Tribunal has no other option but to take legal inference that Defendants 2 to 5 have not signed in the Guarantee Bond.

11. There is no Written Statement filed by Defendant No.6 available on record. This Tribunal finds that the guarantee

letter of Defendant No.6, Syed Mehboob Pasha is marked as Exhibit A29. The Auditor, Arun Kumar, has stated that he did not have personal knowledge about obtaining of signatures of Defendants 2 to 5. He did not make any statement about the signature of Defendant No.6 Syed Mehboob Pasha. Defendant No.6, Mr. Syed Mehboob Pasha, has not disputed his signature by filing a Written Statement before the Tribunal. When the Bank alleges that he stood as a guarantor and executed letter dated 10.01.1992, and in the absence of any rebuttal, the case of the Appellants has to be accepted. However, the Learned Presiding Officer, DRT, Bangalore recorded a finding that there is no specific evidence let in by the Bank against Defendant No.6 and his LRs. This Tribunal finds that the guarantee letter offered by Defendant No.6, Syed Mehboob Pasha, is sufficient to fasten liability on him also along with Defendant Nos. 7 and 8. Accordingly, the order passed by the Learned Presiding Officer, DRT, Bangalore, is partly set aside and modified and this Appeal is allowed in part.

12. Since D6 died during the pendency of the OA and his Legal Representatives have been impleaded as Defendants 6(a) to 6 (d), they shall be liable to the extent of the estate inherited by them from the deceased D6.

13. In the result, the following orders are passed:-

- i) The Appeal in RA :106/2013 is allowed in part, by setting aside the order passed against Defendant No.6 and his Legal Representatives. Defendant Nos. 1, 7 and 8 along with Defendant Nos. 6(a) to 6(d), being the Legal Representatives of deceased D6, are held jointly and severally liable to pay a sum of Rs.6,50,47,499.19p along with interest at 22.75% p.a. and costs from the date of Application to till the date of realization i.e. Rs.5,16,63,688.72 to the first applicant bank and Rs.1,33,83,810.47 to the second applicant bank. The properties described in the OA schedules shall also be liable, subject to the rights of the Defendant No.9 in the properties.

- ii) The claim against Defendants No.2 to 5 and 9 is dismissed subject to the rights of defendant No.9 in respect of the OA schedule properties.
- iii) The liability of Defendant Nos. 6(a) to 6(d) shall be limited to the extent of the estate inherited by them from the deceased Defendant No.6.
- iv) The Recovery Certificate in favour of the Applicant Banks stands modified to that extent.

Both parties shall bear their own costs. All pending IAs, if any, stand closed.

[Dictated to Athistamani, PS, transcribed by her, corrected and signed by me this 09th of April, 2026]

[Justice G. Chandrasekharan]
CHAIRPERSON