



Ms. Pragunee Kashyap, Advocate  
[In W.P.(C) No. 3469 of 2026]

Mr. Ajit Kumar, Sr. Advocate

Mr. Ayush, Advocate

Ms. Shreya Shukla, Advocate

[In W.P.(C) No. 3548 of 2026]

**For the Respondents:** Mr. Sumeet Gadodia, Advocate

Mr. Amish Lal, Advocate

Ms. Shruti Shekhar, Advocate

[In W.P.(C) No.3469 of 2026]

Ms. Amrita Sinha, Advocate

Ms. Shweta Suman, Advocate

Ms. Pragunee Kashyap, Advocate

[for Respondent No.3 In W.P.(C) No.3548 of 2026]

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## **ORDER**

**RESERVED ON 19.06.2026**

**PRONOUNCED ON 25.06.2026**

These two writ petitions deal with same subject matter, wherein issues are common, arguments are common, thus, were heard together and this common judgment is being passed.

2. In W.P.(C) No.3469 of 2026, petitioner has prayed for the following reliefs: -

(a) For quashing and setting aside the order dated 21.04.2026 (Annexure 20) passed in M.A. No.158/2026 in Misc. Application No.132/2026 passed by Chairperson, Debts Recovery Appellate Tribunal, Allahabad, whereby and where under it has been observed that the interim relief granted pursuant to order dated 10.04.2026 (Annexure 18) passed in Misc. Application No.132/2026 shall be continued till the charge of DRT is taken over.

(b) For quashing and setting aside the order dated 10.04.2026 (Annexure 18) passed in Misc. application No.132/2026 by the Chairperson, Debts Recovery Appellate Tribunal, Allahabad wherein and whereunder the Ld. Tribunal has directed the Debt Recovery Tribunal, Ranchi to consider and decide the interim application filed by the Respondents herein with regard to the sale held on 07.04.2026 pending before it, in accordance with law most expeditiously preferably within 10 days from the date of the order and till then, has directed the petitioner bank to receive the entire sale consideration from auction purchaser, however has stopped the bank from issuing sale certificate in favour of auction

-: 2 :-

purchaser.

In W.P.(C) No.3548 of 2026, petitioner has prayed for the following reliefs: -

(a) For issuance of an appropriate writ(s), order(s) or direction(s), including a writ in the nature of Certiorari, for quashing and setting aside the order dated 10.04.2026 passed in Misc. App. No.132 of 2026 (Annexure- 8) and 21.04.2026 passed in M.A. No.158 of 2026 (Annexure- 9) by the learned Debts Recovery Appellate Tribunal, Allahabad, insofar as the same restrain issuance of sale certificate in favour of the Petitioner (Auction Purchaser);

(b) For issuance of an appropriate writ(s), order(s) or direction(s), including a writ in the nature of Mandamus, directing the Respondent No.3 Bank to issue the sale certificate in favour of the Petitioner in respect of the secured asset, the entire sale consideration having already been paid by the Petitioner, in accordance with law;

**3.** In W.P.(C) No.3469 of 2026, the petitioner is the Bank, which had disbursed the loan to respondent No.1 Maa Lalita Hospitals whereas respondent No.2 is the Managing Director of respondent No.1.

In W.P.(C) No.3548 of 2026, petitioner is the Auction Purchaser of the property of respondent No.1 of W.P.(C) No.3469 of 2026.

#### **4. BACKGROUND**

Only relevant facts, which are necessary for purpose of decision in these two writ petitions are being dealt hereinafter.

**4.1** Maa Lalita Hospital and Research Centre Private Ltd. (hereinafter referred to as the 'Borrower'), through its Managing Director, applied for term loan facility from Indian Bank (previously Allahabad Bank, which merged with Indian Bank), to establish a 60 bedded Multispecialty Hospital.

**4.2** The bank sanctioned a term loan of Rs.2 crore for setting up the hospital, wherein Lalita Devi was guarantor. An equitable mortgage was created in favour of the bank by depositing the sale deeds of properties. The amount of the term loan was enhanced to Rs.9 crore and further three title deeds were deposited in lieu of availing the enhanced loan.

**4.3** Again an enhancement from Rs.9 crore to Rs.19.45 crore was sought for, which was sanctioned and against the said enhancement, a fresh

term loan of Rs.10 crore was sanctioned.

**4.4** The borrower started defaulting and the assets were declared NPA on 31.12.2009.

**4.5** A proceeding was initiated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) by issuing demand notice under Section 13(2) of the Act on 20.10.2010.

**4.6** The borrower failed to deposit the said amount, thus, a notice for taking possession of the property was issued. Possession of the properties, i.e., land, building, furniture, fixtures, medical equipments, machinery, tools, vehicles etc. etc. were taken over by the Bank, vide inventory list dated 09.12.2013.

**4.7** The Bank also filed an Original Application under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993 before the Debts Recovery Tribunal, Ranchi i.e., O.A. No.125 of 2013 for recovering an amount of Rs.27,96,56,510.14.

The borrower tried to resolve the issue with the bank, as a result of which the borrower and the bank entered into a compromise.

**4.8** An agreement was entered into on 22<sup>nd</sup> day of January, 2015 between the borrower, the guarantor and the bank. The settlement has been brought on record as Annexure 3. As per the settlement, on amongst others, it was agreed that the borrower will pay a total sum of Rs.19,37,00,000/- plus delayed period interest from 01.04.2012 till full payment to the second party. 11 installments were fixed, which had to be paid by the borrower by depositing the amount mentioned in the agreement.

**4.9** As per the agreement, Rs.10,00,000/- (Rupees Ten Lakh) was deposited on 22.01.2015, i.e., on the date of signing of the compromise agreement and rest of the amount were to be deposited from 31.04.2017 to 31.10.2019 in 11 installments, as specified in the agreement.

**4.10** This joint compromise was also filed in O.A. No.125 of 2013. Considering the compromise entered into between the parties, the Original Application was kept in abeyance. The bank also handed over to the borrower physical possession of the property, which was earlier repossessed.

**4.11** Despite entering into a settlement (the compromise), the borrower failed to adhere to the said conditions and did not pay any further amount after repossessing the assets.

**4.12** A criminal case was also instituted against the borrower for

diverting the amounts for utilizing for other purpose. As the borrower failed to pay the amount and failed to honour the compromise, a fresh payment notice on 10.07.2025 under Section 13(2) of the SARFAESI Act was issued to the borrower for recovery of balance amount of Rs.70,92,12,296/-.

**4.13** Aggrieved by the aforesaid notice, on the ground that the Debts Recovery Tribunal was not functioning, the borrower filed W.P.(C) No. 6720 of 2025, challenging the notice solely on the ground that the notice is barred by limitation and has been issued after 16 years from the date when the account was classified as NPA.

**4.14** The said writ petition was dismissed on merits after considering the arguments of the parties on 5<sup>th</sup> February, 2026.

**4.15** Aggrieved by the aforesaid order, an Intra Court Appeal being L.P.A. No.145 of 2026 was filed by the borrower. The Division Bench, while disposing of the appeal on 25.03.2026, did not interfere with the order passed by the learned Single Judge, but held that the question of limitation was answered by the Single Judge only in the context of the prayer of interim relief, thus, the observation can be recorded as prima facie observation. The Division Bench relegated the borrower to continue with the proceeding before the Debts Recovery Tribunal in S.A. No.5 of 2026, which the borrower had already filed before the Debts Recovery Tribunal.

**4.16** The borrower thereafter preferred a Review Application before the Division Bench, which was numbered as Civil Review (Filing) No.3908 of 2026, which was withdrawn on 7<sup>th</sup> April, 2026. It is relevant to record that on mentioning, the Review Application was fixed on 7<sup>th</sup> April, 2026. At the time of mentioning, borrower was directed by the Division Bench to come ready with an amount of Rs.2 crore, to get a stay order on the auction sale of the properties, but on the next date the amount was not paid, thus, the Civil Review Application was withdrawn. Be it noted that the borrower while arguing before this Court in these writ petitions, has admitted the aforesaid fact.

**4.17** In the meantime, the Bank auctioned the properties of the borrower to recover the balance outstanding amount of Rs.70 crore and odd, on 07.04.2026 itself, pursuant to the sale notice dated 21.02.2026. The amount fetched was Rs. 44.22 crores.

**4.18** The borrower, thereafter approached the Debts Recovery Appellate Tribunal by filing an application under Section 17 A of the Recovery of Debts and Bankruptcy Act, 1993. The Presiding Officer, Debts Recovery Appellate Tribunal disposed of the said application, on 10.04.2026, directing

the Debts Recovery Tribunal, Ranchi to decide the interim application filed by the borrower and also passed an interim order to the effect that the bank may receive the sale consideration from the auction purchaser but the sale certificate should not be issued.

This order is under challenge.

**4.19** The Debts Recovery Appellate Tribunal on 21.04.2026, extended the interim order dated 10.04.2026, which was passed earlier by it, which is also under challenge.

**5.** On the aforesaid background, the Bank has filed the writ petition being W.P.(C) No.3469 of 2026 under Article 226 of the Constitution of India. The Auction Purchaser, who had paid the entire money, pursuant to the said auction, has also prayed, in their writ petition being W.P.(C) No.3548 of 2026, for issuance of sale certificate in their favour after setting aside the interim order passed by the Debts Recovery Appellate Tribunal.

**ARGUMENTS OF THE BANK [PETITIONER IN W.P.(C) NO.3469 OF 2026 & RESPONDENT NO. 3 IN W.P.C NO.3548 OF 2026]**

**6.** Learned counsel appearing on behalf of the Bank submitted that the Debts Recovery Appellate Tribunal, by invoking power under Section 17A of the Recovery of Debts and Bankruptcy Act, 1993, cannot adjudicate any issue nor can pass any judicial order. As per the learned counsel, Section 17A of the Recovery of Debts and Bankruptcy Act, 1993 is a supervisory power to be exercised by the Chairperson of the Debts Recovery Appellate Tribunal. By exercising supervisory power, an interim order, which is adjudicatory in nature, could not have been passed. Further, it is submitted that the respondents have not approached this Court and other Forums with clean hands and have suppressed material facts. Admittedly, each and every time not only they duped and misled the bank, but also did not comply with the order passed by the Division Bench of this Court, thus, they were not entitled for any relief. The relief, which the borrower failed to obtain from the High Court, because of their own fault, has now been obtained by circuitous method, by filing an erroneous application under Section 17A of the Recovery of Debts and Bankruptcy Act, 1993.

The Bank submitted that the issue of limitation raised by the borrower cannot be adjudicated in this application, as the issue has already been decided by the Hon'ble Single Judge of this Court and thereafter by the Hon'ble Division Bench.

Bank submits that due is Rs.70 crore and odd, which the borrower

has not paid and also is not in a position to pay and their only intention is to linger the matter to usurp public money.

**ARGUMENTS OF THE AUCTION PURCHASER [PETITIONER IN W.P.(C) NO.3548 OF 2026]**

7. Learned Senior Counsel appearing for the Auction Purchaser submits that the Chairperson, Debts Recovery Appellate Tribunal has got no power to pass a judicial order and by invoking an absolute wrong provision, the borrower has obtained stay order in their favour, which is not proper. He submits that once the purchaser has deposited the entire amount of auction, they are entitled to get sale certificate, which has been denied by virtue of the interim order. He submits that Sale Certificate has to be issued and same cannot be withheld for any reason, moreso same cannot be stayed by any Court or Tribunal. He refers to the following judgment: -

- (i) ***Jaipur DRT Bar Association versus Union of India & Others [RLW 2001(1) Raj. 384]***
- (ii) ***Smt. Lal Bai Patel versus Central Bank of India [2012 SCC OnLine All 3761]***
- (iii) ***CELIR LLP versus Bafna Motors (Mumbai) Private Limited & Others [(2024) 2 SCC 1]***

**ARGUMENTS OF THE BORROWER [RESPONDENTS IN W.P.(C) NO.3469 OF 2026 / RESPONDENT NO.4 & 5 IN W.P.(C) NO.3548 OF 2026]**

8. Learned counsel appearing on behalf of the borrower submits that the notice issued by the Bank to the borrower is hopelessly barred by limitation. In support of his contention, he has referred to the Limitation Act, especially, Article 137. It is his submission that the application before the Debts Recovery Tribunal cannot be said to be a suit, thus, Article 62 of the Limitation Act cannot be applied in this case. He submits that Article 62 of the Limitation Act is within Part V of the Act, which deals with suits related to immovable properties. When the proceeding of recovery is not a suit, Article 137 of the Limitation Act is applicable and not Article 62. He further submits that from perusal of the notice itself, it would be clear that the same, issued by the Bank, is hopelessly barred by limitation. He further contends that Section 17A gives ample power to the Chairperson, Debts Recovery Appellate Tribunal to pass any order including an order to maintain status-quo over the property and to grant stay. He further submits that the Chairperson, Debts Recovery Appellate Tribunal has got inherent power to pass the aforesaid order. It is his

contention that since Debts Recovery Tribunal, Ranchi was not functioning, he had to move before the Debts Recovery Appellate Tribunal to stall the auction, and it cannot be said that the order is illegal.

In support of his contention, he has referred to the following judgments: -

- (i) ***Grindlays Bank Ltd. versus Central Government Industrial Tribunal and Others [1980 (Supp) SCC 420]***
- (ii) ***Super Cassettes Industries Limited versus Music Broadcast Private Limited [(2012) 5 SCC 488]***
- (iii) ***Gaurav Hargovindbhai Dave versus Asset Reconstruction Company (India) Ltd. & Anr [(2019) 10 SCC 572]***
- (iv) ***Vashdeo R. Bhojwani versus Abhyudaya Co-operative Bank Ltd. & Another [(2019) 9 SCC 158]***
- (v) ***Sesh Nath Singh & Another versus Baidyabati Sheoraphuli Co-operative Bank Ltd. & Another [(2021) 7 SCC 313]***

## **OBSERVATIONS AND FINDINGS**

9. The facts are admitted in this case, which have been mentioned at paragraph 4 and its sub paragraphs. From those facts, it transpires that there is huge amount outstanding against the borrower, which is Rs.77 crore and odd. As he failed to repay the loan, earlier a proceeding was initiated. Another glaring and admitted fact is that the said borrower insisted for compromise and on his insistence, a compromise was entered into by the Bank, but he failed to honour the same, thus, the compromise failed. Be it noted that on execution of the joint compromise deed, the borrower repossessed the property, but thereafter did not honour the compromise. Further, a writ petition was filed by the borrower, taking a plea of limitation. The writ petition was dismissed and the order was not interfered with by the Division Bench of this Court. The Division Bench held that findings on the point of limitation was for the purpose of interim order. As the property was supposed to be auctioned, immediately a review application was filed before the Division Bench. All the counsel admitted that while mentioning the Review Application for listing, the Division Bench of this Court directed the borrower to deposit only Rs.2 crore, but on the next date when the review application was listed, the borrower expressed inability to pay the same, thus, he had no other option, but to withdraw the Review Application. The aforesaid facts, which are admitted, clearly reflects

the intention of the borrower. Where the balance outstanding is Rs.77 crore and odd, inspite of order passed by the Court, the borrower has failed to deposit Rs.2 crore also would but naturally suggest about his financial condition.

**10.** These two writ petitions are filed by the Bank and Auction Purchaser. Their grievance is that Chairperson, Debts Recovery Appellate Tribunal under Section 17A of the Recovery of Debts and Bankruptcy Act, 1993 has passed a judicial order on adjudication and stayed issuance of sale notice, which is illegal. Further, the Auction Purchaser has also prayed for a direction to issue sale certificate in his favour. This Court in the writ petition filed by these petitioners, is confining to the prayer made in these writ petitions only.

**11.** Recovery of Debts and Bankruptcy Act, 1993 was promulgated by the Parliament.

The object of the said Act is to ease out the difficulties, which the banks and financial institutions face in recovering the loan amounts and enforcement of securities charged with them.

**12.** Section 2(a) of the Act defines "Appellate Tribunal" as an Appellate Tribunal established under sub-section (1) of Section 8. Section 8 of the Recovery of Debts and Bankruptcy Act, 1993 deals with establishment of Appellate Tribunal. For better appreciation, Section 8 of the Recovery of Debts and Bankruptcy Act, 1993 is quoted hereinbelow: -

**8. Establishment of Appellate Tribunal. – (1) The Central Government shall, by notification, establish one or more Appellate Tribunals, to be known as the Debts Recovery Appellate Tribunal, to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act:**

**Provided that the Central Government may authorize the Chairperson of any other Appellate Tribunal, established under any other law for the time being in force, to discharge the functions of the Chairperson of the Debts Recovery Appellate Tribunal under this Act in addition to his being the Chairperson of that Appellate Tribunal.**

**(1-A) The Central Government shall, by notification, establish such number of Debt Recovery Appellate Tribunals to exercise jurisdiction, powers and authority to entertain appeal against the order made by the Adjudicating Authority under Part III of the Insolvency and Bankruptcy Code, 2016.**

**(2) The Central Government shall also specify in the notification referred to in sub-section (1) the Tribunals in relation to which the Appellate Tribunal may exercise jurisdiction.**

**(3) Notwithstanding anything contained in sub-sections**

***(1) and (2), the Central Government may authorize the Chairperson of one Appellate Tribunal to discharge also the functions of the Chairperson of other Appellate Tribunal.***

As per Section 8, the Appellate Tribunal has to exercise jurisdiction, powers and authority conferred on such Appellate Tribunal, by or under such Act. This means that the Appellate Tribunal has to function and exercise strictly as per the authority and power, which have only been conferred upon them by the Statute.

Section 2(ea) defines “Chairperson” as a Chairperson of an Appellate Tribunal appointed under Section 9. Section 9 of the Recovery of Debts and Bankruptcy Act, 1993 deals with composition of the Appellate Tribunal. For better appreciation, Section 9 of the Recovery of Debts and Bankruptcy Act, 1993 is quoted hereinbelow: -

***9. Composition of Appellate Tribunal. – An Appellate Tribunal shall consist of one person only (hereinafter referred to as the Chairperson of the Appellate Tribunal to be appointed, by notification, by the Central Government.***

As per the above provision, the Appellate Tribunal consists of only one person, who is the Chairperson. It is a single person Tribunal.

Section 17 of Chapter III of the Recovery of Debts and Bankruptcy Act, 1993 deals with the jurisdiction, power and authority of the Tribunal. For better appreciation Section 17 is quoted herein, which reads as under: -

***17. Jurisdiction, powers and authority of Tribunals. – (1) A Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain and decide applications from the banks and financial institutions for recovery of debts due to such banks and financial institutions.***

***(1-A) Without prejudice to sub-section (1), -***

***(a) the Tribunal shall exercise, on and from the date to be appointed by the Central Government, the jurisdiction, powers and authority to entertain and decide applications under Part III of Insolvency and Bankruptcy Code, 2016;***

***(b) the Tribunal shall have circuit sittings in all district headquarters.***

***(2) An Appellate Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain appeals against any order made, or deemed to have been made, by a Tribunal under this Act.***

***(2-A) Without prejudice to sub-section (2), the Appellate Tribunal shall exercise, on and from the date to be appointed by the Central Government, the jurisdiction, powers and authority to entertain appeals against the order made by the Adjudicating***

***Authority under Part III of the Insolvency and Bankruptcy Code, 2016.***

Section 17(2) of the Recovery of Debts and Bankruptcy Act, 1993 quoted hereinabove deals with the power, which the Appellate Tribunal exercises. As per the provision of Section 17(2), the Appellate Tribunal has the authority, power and jurisdiction to entertain appeals against any orders made or deemed to have been made by the Tribunal under this Act. As per Section 17(2-A), it has also the power to entertain appeals against the order made by the Adjudicating Authority under Part III of the Insolvency and Bankruptcy Code, 2016.

**13.** Thus, as per the aforesaid provisions of law, the power to entertain and adjudicate appeals has been conferred upon the Appellate Tribunal. This is the adjudicating power, which the Tribunal has specially been conferred with by the Statute. Further, the Appellate Tribunal not only has the power to entertain, hear and decide appeals against any order made, but also against an order deemed to have been made by the Tribunal. Thus, a deemed order, which is not specifically incorporated in the order, but deemed to have been made, can be challenged by the aggrieved person.

**14.** Section 17A of the Recovery of Debts and Bankruptcy Act, 1993 deals with the powers of the Chairperson of the Appellate Tribunal. Section 17A is quoted herein, which reads as under: -

***17-A. Power of Chairperson of Appellate Tribunal. – (1) The Chairperson of an Appellate Tribunal shall exercise general power of superintendence and control over the Tribunals under his jurisdiction including the power of appraising the work and recording the annual confidential reports of Presiding Officers.***

***(1-A) For the purpose of exercise of general powers of superintendence and control over Tribunals under sub-section (1), the Chairperson may –***

***(i) direct the Tribunals to furnish, in such form, at such intervals and within such time, information relating to pending cases both under this Act and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), or under any other law for the time being in force, number of cases disposed of, number of new cases filed and such other information as may be considered necessary by the Chairperson;***

***(ii) Convene meetings of the Presiding Officers of Tribunals periodically to review their performance.***

***(1-B) Where on assessment of the performance of any Presiding Officer of the Tribunal or otherwise, the Chairperson is of the opinion that an inquiry is required to be initiated against***

*such Presiding Officer for misbehavior or incapacity, he shall submit a report to the Central Government recommending action against such Presiding Officer, if any, under section 15, and for reasons to be recorded in writing for the same.*

*(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.*

**15.** From perusal of the aforesaid provision, it is clear that a power has been conferred upon the Chairperson of the Appellate Tribunal to supervise and to have control over the Tribunal, which are under his jurisdiction. This includes the power to appraise the work and recording of Confidential Reports. It gives power to convene meeting of the Presiding Officers and direct them to submit forms and assess their performance. Section 17A(2) gives power to the Chairperson to transfer any case from one Tribunal, for disposal, to another Tribunal. Thus, Section 17A is a power conferred upon the Chairperson of the Appellate Tribunal, which is administrative in nature and is no way related to any judicial or adjudicatory function, which is bestowed under Section 17 of the Recovery of Debts and Bankruptcy Act, 1993. Section 17A(2) only gives power to the Chairperson to transfer one case from one Tribunal to another. This is a special and limited power granted to the Chairperson of the Appellate Tribunal. This cannot be strictly said to be adjudicatory in nature, rather is purely administrative. In this context, it is pertinent to mention here that while invoking power under Section 17A of the Recovery of Debts and Bankruptcy Act, 1993, Chairperson can not act as an Appellate Tribunal even though the Tribunal is a one man Tribunal. This is strengthened and supported by these two provisions of law, i.e., Section 17 and Section 17A of the Recovery of Debts and Bankruptcy Act. If these two provisions are carefully read, it will be clear that by virtue of Section 17, power and authority is vested with the **“Appellate Tribunal” and not with the “Chairperson”**. The legislature, in its own wisdom has not used the word ‘Chairperson’, rather used the word “Appellate Tribunal”. On the contrary, if we see Section 17A, legislature has consciously used the word “Chairperson of the Appellate Tribunal”. Thus, if the Chairperson exercises a judicial power, it will be under Section 17 of the Recovery of Debts and Bankruptcy Act, 1993, which will mean that it is the Tribunal, which is exercising the jurisdiction. As a Tribunal, even though it is a one man Tribunal, consisting only of the Chairperson, he has to exercise the powers within the four corners of Section

17, which is an adjudicatory power. If that same person, i.e., Chairperson exercises the power, which is conferred upon him under Section 17A of the Act, it will be deemed that he is passing the said order as the Chairperson of the Appellate Tribunal on administrative side, but not as the Appellate Tribunal, exercising judicial power. Thus, even if the person is same, both the jurisdictions are different. Once the jurisdiction is different, same person has to act in accordance with different jurisdiction and power conferred upon him under different provision of the Act. Acting as a Chairperson of the Tribunal by invoking power under Section 17A, he cannot pass any order, which is exclusively bestowed upon the Appellate Tribunal in terms of Section 17 of the Recovery of Debts and Bankruptcy Act though the person exercising the power may be same.

**16.** Considering the aforesaid provisions of law, now it has to be seen as to what is the nature of order, which has been passed in this case. Admittedly, the borrower approached the Debts Recovery Appellate Tribunal, by invoking its jurisdiction under Section 17A(2) of the Recovery of Debts and Bankruptcy Act, 1993. As per the said provision, the Chairperson does not exercise the power of an Appellate Tribunal. He exercises the power of the Chairperson of the Appellate Tribunal. As per Section 17A(2), the power is only limited to transferring any case from one Tribunal to another Tribunal, after hearing the parties. In this case, it is admitted that prayer, which was made by invoking the aforesaid provision by the borrower is to transfer his case from Debts Recovery Tribunal, Ranchi to any other Tribunal on the ground that Debts Recovery Tribunal, Ranchi was not functional. Further, the borrower had also prayed to stay issuance of sale certificate in favour of the Auction Purchaser. The relief sought from the Debts Recovery Appellate Tribunal is at page 211 of the writ petition [W.P.(C) No.3469 of 2026], , which reads as under: -

**6. RELIEF(S) SOUGHT –**

***In view of the abovementioned facts and grounds the Applicants most respectfully prays:-***

- a. That the present Application may kindly be allowed and restrained the respondent Bank for issuing the sale certificate in favour of the auction purchaser till disposal of the interim Application Dy. No.176 of 2026 pending before the Debt Recovery Tribunal, Ranchi.***
- b. Any other direction or order in addition to and/or in substitution of what has been prayed above as may be found expedient in the facts and circumstances of the case.***

*c. May be pleased to award cost of the present Application*

**7. INTERIM ORDER, IF PRAYED FOR:**

*In view of the facts and circumstances of the case restrained the respondent Bank for issuing the sale certificate in favour of the auction purchaser till disposal of the Interim Application Dy. No. 176 of 2026 pending before the Debt Recovery Tribunal, Ranchi.*

**17.** From the aforesaid relief sought for, it is clear that the borrower has prayed to stay the issuance of sale certificate. Granting a stay is a judicial discretion, which needs to be judiciously exercised considering several aspects and facts. The same cannot be done by exercising an administrative power, which is not vested upon the Chairperson of the Appellate Tribunal in terms of Section 17A or 17A(2) of the Recovery of Debts and Bankruptcy Act, 1993, rather is a judicial power vested in terms of Section 17 of the Recovery of Debts and Bankruptcy Act. This type of judicial order cannot be passed by the Chairperson of the Appellate Tribunal by invoking provisions of Section 17A of the Recovery of Debts and Bankruptcy Act. Further, it is pertinent to note that an express order can also be challenged and the deemed order also can be challenged. It is an admitted case that a writ petition was earlier filed challenging the notice, which was dismissed. In the Intra Court Appeal also the Division Bench had not interfered with the order passed by the Writ Court. The borrower approached the Debts Recovery Tribunal and as property was about to be auctioned, he also filed a Review Application, but as he did not comply the direction given by the Division Bench, the Review Application was withdrawn by the borrower.

**18.** It is pertinent to mention here that to invoke the jurisdiction under Section 17 of the Recovery of Debts and Bankruptcy Act, which is judicial in nature, a defaulter has to follow the procedure laid down in Chapter IV of the Recovery of Debts and Bankruptcy Act, 1993. Section 20 in the said Chapter provides for filing of an appeal to the Appellate Tribunal. Section 21 of the said Act provides that where an appeal is preferred, from whom the amount of debt is due from the bank, the appeal will not be entertained by the Appellate Tribunal, unless the defaulter deposits 50% of the amount, which is due from him as determined by the Appellate Tribunal under Section 19. In this case, though the Tribunal has not determined any dues, but the fact remains that earlier, there was a compromise between the bank and this borrower, which suggests that the borrower has also admitted that there are huge dues. Borrower also undertook to pay Rs.19,37,00,000/- plus delayed period interest

from 01.04.2012 till full payment. Thus, to invoke the provisions of Section 20 read with Section 17 of the Recovery of Debts and Bankruptcy Act, 1993, the borrower had to deposit some amount as pre-deposit. Without doing so, in a circuitous manner, he invoked Section 17A of the Recovery of Debts and Bankruptcy Act and prayed for a relief, which only could have been granted on the judicial side. Ultimately, he got the same. Be it noted that from the relief, as prayed by him and quoted above, though in the petition he has mentioned that Debts Recovery Tribunal is not functioning in Ranchi but in the relief portion he has not sought for the said relief, rather he prays to dispose of his interim application. This is a very clever tactics adopted by the borrower, which is strictly deprecated by this Court. By any means, the borrower is trying to stall the recovery process, where the recovery to be made is Rs.77 crore and odd. The money, which has been disbursed to the borrower is nothing but public money and the same needs to be recovered, definitely, as per law. The borrower, herein, has taken all the effort to stall the recovery proceeding, but has not taken any effort to repay the loan amount.

**19.** From what has been discussed above, the Chairperson, acting as a Chairperson of the Appellate Tribunal in terms of Section 17A, has exceeded his jurisdiction while granting the relief to the borrower, i.e. staying the issuance of sale certificate, which can only be done on the judicial side and that too, after following due procedure of law. The said order could only have been passed in terms of Section 17 of the Recovery of Debts and Bankruptcy Act. Powers under Section 17 and 17A of the Recovery of Debts and Bankruptcy Act are different and operate in different circumstances. Both cannot be equated. If the same is equated and merged, there would not have been any occasion for the legislation to make two sets of provisions to be exercised by the same person, i.e., Section 17 and Section 17A of the Act.

**20.** The judgments referred to by the learned counsel for the borrower on the point that the Chairperson has got power to pass an interim order to maintain status quo of the property does not fit to the facts of this case. Respondent herein, i.e., the borrower had taken a plea that the proceeding and the notice is time barred. This argument, in this writ petition filed by the Bank and the Auction Purchaser, cannot be looked into, when exactly this point was raised in writ petition being W.P.(C) No. 6720 of 2025, filed by the borrower, which was subsequently taken in Letters Patent Appeal. In the writ petition which was filed by the borrower, the Court held that the claim and notices are within the period of limitation, thus declined to give interim

protection. The Division Bench in the Intra Court Appeal also held that the findings on limitation given by the Single Judge is prima facie finding and is on interim prayer. The Division Bench did not set aside the order of the Single Judge, which means that the issue was set at rest till the Debts Recovery Tribunal decides the issue, which is evident from paragraph 10 of the order dated 25.03.2026 passed in L.P.A. No.145 of 2026, which reads as under: -

***10. Once again, we clarify that the observations in the impugned order, including the observations on the issue of limitation, being prima facie, would not affect any of the parties, and the D.R.T. would have to decide all these issues on their own merits without being influenced by such observations.***

Thus, if this Court again entertains the same plea taken by the borrower, it would amount to sitting over the order passed by the Single Judge and also by the Division Bench, which is beyond the jurisdiction of this Court. It will also amount to judicial impropriety. It will also amount to overruling the order of the Single Judge and the Division Bench,. Be it noted that against the order passed in Letters Patent Appeal, the borrower had not approached the Hon'ble Supreme Court, thus, the issue, which has been raised by the respondent-borrower cannot be looked into.

**21.** Considering what has been discussed and held above, I hold that the Appellate Tribunal has transgressed his jurisdiction while granting stay by invoking Section 17A of the Recovery of Debts and Bankruptcy Act. The order passed by the Debts Recovery Appellate Tribunal dated 10.04.2026 passed in Misc. Application No.132 of 2026, whereby the Debts Recovery Appellate Tribunal has stayed issuance of sale certificate, is hereby set aside. Consequently, the consequential order dated 21.04.2026 passed by the Debts Recovery Appellate Tribunal in M.A. No.158 of 2026 in Misc. Application No.132 of 2026 is also set aside, as the initial order of the Debts Recovery Appellate Tribunal has been set aside. There is no impediment to issue sale certificate by the Bank in favour of the Auction Purchaser. Both these writ petitions stand allowed. Pending interlocutory applications, if any, stand disposed of.

**(Ananda Sen, J.)**

**High Court of Jharkhand, Ranchi**

**Dated 25<sup>th</sup> June, 2026**

Kumar/Cp-02

**AFR**

**Uploaded on 25.06.2026**