

# RAJASTHAN HIGH COURT

Modern Syntax (I) Ltd.

Vs.

Debts Recovery Tribunal

Civil Writ Petn. No. 4811 of 2000  
(Dr. Ar. Lakshmanan, C.J. and Mohd. Yamin, J.)

14.02.2001

## JUDGEMENT

**Dr. AR. Lakshmanan, C.J.**

1. This writ petition was filed by the petitioner with the following prayers :-

- (a) Dismiss the recovery application filed by respondent No. 2 before the respondent No. 1 (Anx. 1) as not maintainable/returnable on account of notification under Rajasthan Relief Undertaking Act issued by the Government of Rajasthan (Anx. 3).
- (b) Quash and set aside the order dated 13-10-2000 marked as Annexure 6 passed by the respondent No. 1.
- (c) Quash and set aside the order dated 6-9-2000 marked as Annexure 2 passed by the respondent No. 1.
- (d) Pass such other orders as the Court deems just and proper in the facts and circumstances of the case.

2. The State Bank of Bikaner and Jaipur filed Original Application No. 431/2000 and prayed for the following reliefs:-

"(i) Issue a Certificate for recovery of the aggregate amount of Rs. 25,86,92,370.68 (Rupees Twenty Five Crores Eighty Six Lakhs Ninety two thousands three hundred seventy and paise sixty eight only) as Principal amount outstanding as on 8th August, 2000 as per the provisions of Section 19(20) of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 against the Defendant Nos. 1 to 3 jointly and severally;

- (ii) award interest pendent lite and future at the rate of 20.05% per annum with Quarterly rates in favor of the applicant Bank from 9th August, 2000 till the date of actual and final recovery besides all costs and expenses incurred/to be incurred against the defendant Nos. 1 to 3 jointly and severally;
- (iii) issue a direction to the defendant No. 5 Industrial Finance Corporation of India acting for itself and as agents of other Financial Institutions, that in the event of sale of the immovable properties and assets on which under joint mortgage they have first charge in their favor and the applicant Bank has the second charge, the sale proceeds may be distributed as per the terms and conditions of joint mortgage and the share of the applicant Bank be paid to it for adjustment against the dues of the defendant-Company;
- (iv) Realize the dues as per the Recovery Certificate, by sale of the properties, stocks in trade etc., which have been hypothecated in favor of the applicant Bank;
- (v) In case the sale proceeds of the hypothecated, assets and goods are found insufficient to fully satisfy the entire decretal amount with all interests, costs, charges and expenses etc., then the balance so found due to the applicant Bank under the Recovery Certificate may be ordered to be jointly and severally recovered and realized from the person and other properties of the defendant Nos. 2 and 3 under the law.
- (vi) Award costs of this application to the applicant Bank, and
- (vii) Award such other and further relief/s. as may be deemed just and expedient in the facts and circumstances of the present case so as to give full relief to the applicant Bank."

3. Pending final decision of the original application, the State Bank of Bikaner and Jaipur (hereinafter called 'the Bank') also sought the interim prayers of order of attachment before judgment attaching the movable and immovable assets and properties of the defendants therein and to restrain the defendants Nos. 1 to 3 by order of injunction under Section 19(12) of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 debarring them from transferring alienating or otherwise dealing with or disposing of the hypothecated stocks and assets, machineries etc. till the recovery of the dues of the Bank.

4. The original application was filed by the Bank for recovery of Rs. 25,86,92,370/- from the petitioner Modern Syntax (India) Ltd. and from the guarantors. A counter-

affidavit was filed by one Sri H.S. Ranka wherein an objection has been taken that since the notification dated 15-2-2000 had been issued by the Government of Rajasthan and by issue of these two notifications two divisions namely, Yarn Division and Synthetic Division of the petitioner company have been declared Relief Undertakings, therefore, application for recovery was not liable to proceed with as per the provisions of Section 4(1)(b) of the Rajasthan Relief Undertakings Act, 1961 (RRU Act for short). These objections had been taken by the petitioner by moving an application.

5. By order dated 13-10-2000, the Debt Recovery Tribunal, Jaipur rejected the Application dated 20-9-2000 (Annexure-5 to the writ petition) moved by the petitioner Modern Syntax for dismissing the original recovery application in view of the notification issued by the Government of Rajasthan, holding that the provisions of Rajasthan Relief Undertaking Act, 1961 cannot be helpful to defendant No. 1 under Section 19 of the Act of 1993 and, therefore, the proceedings cannot be stayed or rejected in pursuance of the Notification issued under Sections 3 and 4 of the Relief Undertaking Act.

6. Being aggrieved, the petitioner filed the above writ petition with the prayers as extracted in paragraphs above. A preliminary objection in regard to the maintainability of the writ petition was taken by the respondent Bank. According to the Bank, the impugned order dated 13-10-2000 is an appealable order and that the appeal lies against that order under Section 20 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 as amended by the Amendment Act of 2000 (hereinafter referred to as the 'RDB Act') and that the petitioner has filed the present writ petition challenging the order dated 13-10-2000 passed by the Debt Recovery Tribunal, Jaipur and that when the petitioner had the remedy of filing the appeal under Section 20 of the Act of 1993 and as the appeal was an alternative remedy available under the law, the petitioner should have resorted to the appeal rather than invoking the jurisdiction of this Court. Apart from that an appeal lies to appellate authority, even the power of superintendence has been vested in the Appellate Tribunal by virtue of the Amendment Act of 2000 vide newly added Section 17A of the RDB Act. Thus, the petitioner ought to have sought its remedy by taking recourse to filing appeal or making an application under Section 17 or invoking the provisions of Section 17A of the RDB Act. On merits, it is submitted that the Debt Recovery Tribunal had acted within its jurisdiction and that the provisions of Article 254 of the Constitution have

saved the law made by the Parliament whenever there is a repugnancy between the law enacted by the Parliament and the law of the State and/or if there being any repugnancy between any provisions of law made by the Parliament or that of the State to the extent of the repugnancy. It is further submitted that the law of the State or any provision thereof would be treated as of no avail and hence to yield to the law made by the Parliament and/or any provision thereof in case of repugnancy.

7. Though a preliminary objection in regard to the maintainability of the writ petition was made, both the learned counsel appearing for the respective parties have addressed arguments on the maintainability of the writ petition and also on merits by inviting our attention to the entire pleadings and the provisions of law and of the judgments rendered by the High Courts and also of the Apex Court. Since, arguments were also heard on merits of the rival submissions with particular reference of the provisions of law and the rulings of the various High Courts and also of the Supreme Court, we are not inclined to express our opinion on the maintainability of the writ petition but to proceed to consider the merits of the claims of both the parties.

8. Before we proceed to consider the merits of the case the facts in brief leading of the filing of the writ petition is necessary to be stated.

9. The petitioner M/s. Modern Syntax (India) Ltd. is a Public Limited Company having its registered office at Jaipur. The Company owns three Industrial undertakings also styled and known as Division they are :-

1. Modern Syntax Yarn Division, located at Alwar.
2. Modern Suitings Division, located at Alwar (Raj.); and
3. Modern Petrofils Division, located at Baroda (Gujarat).

10. In exercise of the powers available to the States of Rajasthan and Gujarat, both the States enacted the following two Legislations with a view to provide for ameliorative and remedial measures for safeguarding employment of the workmen employed in the Industrial Undertakings located in their respective jurisdiction. The said Acts are :-

1. The Rajasthan Relief Undertakings (Special Provisions) Act, 1961; and
2. Bombay Relief Undertakings (Special Provisions) Act, 1958.

11. The above two Acts empower the respective State Governments to declare Industrial Undertakings located under their jurisdictions as a 'Relief Undertaking' for the purpose of the said Acts. Such a declaration provides for suspension of operation of the specified laws and agreements entered pursuant to the provisions of the above two Acts. It also provides for suspension of the legal proceedings of any kind instituted against a 'Relief Undertaking' for the period for which it remains a 'Relief Undertaking'.

12. In exercise of the powers available to them, the States of Rajasthan and Gujarat issued two separate Relief Undertaking Notifications as detailed hereunder :-

(a) Notification dated 15th February, 2000 issued by the State of Rajasthan.

The notification relates to the two industrial undertakings owned by the petitioner company located in the State of Rajasthan, namely, Modern Syntax Yarn Division, located at Alwar (Raj.) and Modern Suiting's Division, located at Alwar (Raj.)

(b) Notification dated 5th October, 2000 issued by the State of Gujarat.

The notification relates to the industrial undertaking located in the State of Gujarat, namely, Modern Petrofils Division, Baroda (Gujarat).

13. On receipt of the notice from the Debt Recovery Tribunal (hereinafter called 'the Tribunal'), the petitioner Company as already noticed filed an application seeking suspension of the proceedings initiated by the Bank for recovery. The respondent-Bank filed their written reply to the said application stating that the Relief Undertaking Acts being State Legislation cannot operate against the provisions of the RDB Act, which is a Central Act. It was also contended that even if the provisions of the RRU Act are assumed to be constitutional and even if the Relief Undertaking Notifications are considered to be valid on account of inherent inconsistency and repugnancy that exists between the provisions of the RDB Act and the Relief Undertaking Act, in terms of Section 34(1) and (2) of the RDB Act, the provisions of RDB Act would prevail over the Relief Undertaking notifications and have to give way to the provisions of the RDB Act. We have already noticed and referred to the order passed by the Tribunal rejecting the contention of the petitioner by its order dated 13-10-2000.

14. In the back ground of above set of facts, the short point involved in this petition is whether proceedings under recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDB Act) would lie against an industrial undertaking and its owner Company once that undertaking has been declared to be a 'Relief Undertaking' within the meaning of Rajasthan Relief Undertakings (Special Provisions) Act, 1961 (RRU Act).

15. Supporting the plea raised in the writ petition, Sri Paras Kuhad submitted that a bare perusal of the Notifications issued by the State Government brings out the mandate contained therein and directions issued thereby. According to Sri Paras Kuhad, the notification issued by the State of Rajasthan, no further steps shall be taken against the Industrial Undertakings for the period for which the notification was issued and that no suit or proceedings shall be instituted against such 'Relief Undertaking' nor in respect of such proceedings being already pending no further steps shall be taken. Arguing further, learned counsel submitted that the notification dated 5-10-2000 issued by the State of Gujarat that in relation to the said undertakings, all rights, privileges, obligations, liabilities (other than the liabilities towards its employees) occurring or incurred before or after the said undertaking is declared as a Relief Undertaking and any remedy for the enforcement thereof shall be suspended and all proceedings relating thereto, pending before any Court, Tribunal, Officer or authority shall stand stayed for the period for which the undertaking shall continue to be a Relief Undertaking, namely, for the period of 12 months commencing from 5th October, 2000.

16. Opposing the above contention on behalf of the petitioner, Sri C. K. Garg, Senior Advocate, appearing on behalf of the respondent Bank, raised the following contentions :-

(a) The notifications issued by the State of Rajasthan and Gujarat seek to notify only three undertakings of the petitioner Company as 'Relief Undertakings' and the notification do not however seek to notify the Company as such as a 'Relief Undertaking' and, therefore, the protection, if any of the notification is at best restricted to some of its industrial undertakings and does not extend to the petitioner company as a whole.

(b) That under Section 3 of the RRU Act, a declaration of an industrial

undertaking as a Relief Undertaking can be made only subject to such undertaking having received from the State any loan, guarantee or other financial assistance. In this regard it was contended that the participation/subscription, by Rajasthan Industrial Development Corporation to the equity capital of the petitioner company cannot be treated as a case of financial assistance by the State Government, and that as such the jurisdictional condition postulated under Section 3 of the RRU Act is not satisfied.

(c) The Relief Undertaking notifications are invalid, in as much as, a declaration as a relief undertaking can be made only in respect of an industrial undertaking which is fully functional, and in, a case, where the industrial undertaking is lying closed for several years, such a declaration cannot be issued. Further that the company's undertakings at Alwar, are lying closed for last several years, and that the said undertakings, do not presently employ any workmen, and that in that view of the matter, a declaration as a Relief Undertaking, could not have been issued by the State of Rajasthan.

(d) That the Relief Undertaking notifications are invalid in as much as, the said notifications have been issued without application of mind to the three relevant jurisdictional facts, namely :-

(a) The State should have provided financial assistance.

(b) Intervention was necessary for avoiding unemployment, and

(c) Such intervention was necessary to prevent stoppage of production.

(e) That assuming without admitting, that the notifications were valid, the protection of the Relief Undertaking notifications, stood effaced, by virtue of the provisions of Section 34 of the RDB Act, whereby the whole of RDB Act prevails over the provisions of RRU Act.

(f) That the petition in question is barred by the availability of an alternative remedy under Section 20 of the RDB Act.

(g) That the petition is incompetent in law, in as much as, it has been filed without the authority of the Company's Board of Directors, as required by Section 291 of the Companies Act, 1958.

(h) Lastly, that in any case, the protection of RRU Act can only be claimed by a company and not by its directors, and thus, the proceedings instituted against the directors are liable to continue, notwithstanding the terms of the Relief Undertaking Notification.

17. In addition to the points involved and referred to earlier, the following issues will

also emerge from the submissions advanced by the learned counsel appearing on either side.

- (a) Whether the writ petition is maintainable before this Court?
- (b) Whether the relief undertaking Notifications are invalid for the reasons advanced by the respondent Bank? and
- (c) Whether Section 34 of the RDB Act nullifies the R.R.U. Notification?

18. We have already referred to the arguments advanced by Sri C. K. Garg, Sr. Counsel in regard to the maintainability of the writ petition and availability of alternative remedy. We are not inclined to express any opinion on the question of maintainability of the writ petition and the availability of alternative remedy since by the consent of both the parties, arguments were heard on merits of the rival claims as well. The questions raised under the writ petition involve interpretation of the correct scope of Articles 246 and 254 of the Constitution as also the question as to the correct interpretation of Section 34 of the RDB Act. As rightly pointed out by Sri Paras Kuhad, the issues raised herein are jurisdictional issues and in as much as a finding in favor of the petitioner on its plea that by virtue of operations of RRU Notification, proceedings before the DRT are statutorily barred would have the effect of ousting the jurisdiction of the Tribunal. It is settled by a catena of decisions of the Supreme Court that a petition which seeks an interpretation of intricate questions of law or an interpretation of provisions of Constitution, and a petition which raises an issue of jurisdiction is directly maintainable before this Court

- (b) Whether the relief undertaking Notification are invalid for the reasons advanced by the respondent-Bank?

19. After inviting our attention to the findings rendered by the Tribunal, Sri C. K. Garg, Sr. Counsel for the respondent-Bank submitted that the Notifications dated 15-2-2000 are *ex facie* bad and since they do not meet with the conditions present and pre-requisite conditions given in Section 3 of the RRU, the Notifications have to be treated as void. According to Mr. Garg, this point was noticed by the DRT but it did not go further in the matter and rest contended by saying that the interests of the State would not be a subject matter of its enquiry while deciding. Mr. Garg would further submit that pre-requisite condition in any case is that the State should have necessarily given any loan, guarantee or other financial assistance and in this case, no financial

assistance was given to the two divisions. He invited our attention to the Notification itself wherein only contribution had been made towards capital of Modern Syntax (India) Ltd. which has been mentioned in the very early part of the Notification. The Notifications also speak that there will be no liability on the State Government for purposes of payment of the wages to the workmen of the two divisions covered by the Notification or that the State Government will not be responsible for any kind of financial liability and the same will not be borne by it. Sri Garg then submitted that the purpose of declaring a company a relief undertaking is to save unemployment and production of goods necessary for the society which are the salutary principles. According to learned Sr. Counsel, the principles have been recognized in the various pronouncements of the Hon'ble Supreme Court and the High Courts and both these purposes are not going to be fulfilled by the issue of the two Notifications whereby only two divisions have been declared as Relief Undertakings. The reasons according to Mr. Garg are as under :-

(a) The Company, Modern Syntax (India) Ltd. is lying closed admittedly for last several years. Reference may be made to para 10 of the written preliminary submission made on behalf of the respondent-Bank that "the defendant petitioner Company is lying closed and that too for several years. Therefore, there is no possibility of any labour being rendered unemployed. Likewise, no public interest could be served in as much as it would have no adverse effect on their production. . . . ." This submission made on the part of the respondent-Bank has not been controverted. Even the Balance Sheet of the Company filed along with additional Affidavit, which was not made a part of the record by the order of this Hon'ble Court, also makes a mention that the Yarn division was under Lockout since October, 1996. It further says "it would require large funds to be infused in this division for restarting its operation. . . . ." This could not be controverted by any means before the DRT against whose judgment the petitioner Modern Syntax (India) Ltd. has come in writ petition.

(b) Since the Company is lying closed, there is no possibility of even the production being put to loss.

(c) The State Government has not given out any revival programme. On the contrary it has shirked completely its financial liability in a complete manner including the payment of wages to the labor.

20. Mr. Paras Kuhad, learned counsel for the petitioner raised an objection in regard to the submissions made by Mr. C. K. Garg about the validity of the Relief Undertaking

Notifications. According to Mr. Paras Kuhad, the challenge to the Notifications is wholly misconceived and dehors the scope of this writ petition and the respondent-Bank if aggrieved by the validity of these Notifications, they ought to have filed a writ petition on its own to assail the validity of the Notifications and the respondent-Bank has not instituted till today any writ petition or other proceedings before any forum assailing the validity of the Relief Undertaking Notifications and instead, the respondent-Bank has sought to launch a collateral attack on the validity of the Notification by seeking to contend in these proceedings that the said Notifications are invalid.

21. We see much force and merit in the contentions of the learned counsel for the petitioner. It is well settled that a statutory instrument cannot be challenged by a defendant collaterally in a proceeding instituted by a third party and that any challenge to such instrument has to be made directly and frontally by way of a direct petition. This apart, an effective adjudication of any such challenge would be impossible without the State being a party to the writ petition. All that is required to be examined in the present writ petition is the issue as to whether exercise of jurisdiction by the DRT suffers from any of the jurisdictional or legal infirmities. It is argued by Mr. Kuhad that the DRT was not competent to examine any challenge to the validity of the Relief Undertaking Notifications in as much as the said Notifications are, admittedly, statutory instruments. The Tribunal being a creation of a statute is not empowered under the Act to entertain as challenge with respect to the validity of a statutory instrument. Therefore, the Tribunal did not examine the issue as to the validity of the Relief Undertaking Notifications.

22. Since, the validity of the Notifications was challenged by the respondent-Bank and countered by the petitioner company, we proceeded to consider the rival submissions on merits. The arguments of Sri C. K. Garg, learned Sr. Counsel appearing for the respondent-Bank on the validity of the Notification have already been referred to in paragraph (supra). Before dealing with the challenge in detail, the factual aspects of the matter which are relevant for such discussion may be referred to herein in answer to the allegations by the respondent-Bank. In the context of such challenge, the petitioner Company has submitted that the petitioner company Modern Syntex (India) Ltd. did not at any stage remain closed and was all along, and till today, fully operational and that the petitioner company is carrying on manufacturing operations worth more than Rs. 600 crores per annum. The petitioner company has on its rolls,

approximately 2600 workmen and the company's undertakings at Baroda and at Alwar are fully operational even today and are accounting for production of a value of more than 600 crores. The petitioner company's Yarn Division located at Alwar is also not under 'closure' and only its operations are temporarily suspended on account of serious labour problems and that the petitioner did not at any stage ever declared closure of the said undertaking and that services of none of the 1600 workmen employed in the yarn division have so far been terminated so far. The respondent-Bank in our opinion has overlooked the Relief Undertaking Notifications issued by the State of Gujarat, which was very much a part of the record of the writ petition (Annexure-4). A bare perusal of Annexure-3, the Rajasthan Notification, along with Annexure-4, the Gujarat Notification, clearly show that the total number of industrial undertakings' divisions declared by the State of Rajasthan and Gujarat to be relief undertakings are not two but three in number. As stated by the petitioner company in the additional affidavit and in the writ petition, the total number of undertakings/divisions owned by the company are only three and all the undertakings of the company are enjoying protection under the Relief Undertaking Acts. According to Mr. Kuhad, as held by the Supreme Court the company and not its divisions should have been declared to be relief undertaking. In the instant case, the company has a total of three undertakings only and it is a sum of those three undertakings, which constitute the entity of the Company. All the three industrial undertakings have been declared to be Relief Undertakings, and it is thus clear that the protection of Relief Undertaking Acts has been extended by the States of Rajasthan and Gujarat in respect of each and every undertaking owned by the petitioner company. In other words, in respect of all the assets/units held by the petitioner company and the protection is thus, available to the petitioner company as a whole.

23. Our attention was drawn to the decision of the Supreme Court in the case of *Doburg Lager Breweries Pvt. Ltd. v. Dhariwal Bottle Trading Co<sup>l</sup>* and the contents of the Relief Undertaking Notification issued in the said case. The notification in the above mentioned case was also issued to serve as a measure of unemployment in Doburg Lager Breweries Pvt. Ltd. to which the State Industrial and Financial Corporation, Maharashtra has provided financial assistance. It is submitted by Mr. Kuhad that in all the relief undertaking notifications issued by the State of Rajasthan, the declaration as a relief undertaking was in the context of an industrial undertaking and not in the context of a company. In the above judgment, their Lordships of the Supreme Court have specifically held that in respect of declaration made under

Section 3, a relief undertaking means an industrial undertaking. Section 3 refers to an industrial undertaking and states that a declaration may be made under the Act and that the consequence of such declaration is that any remedy for enforcement of any obligation incurred by an undertaking shall remain suspended. Section 3 of the RRU Act, under which the expression "financial assistance" occurs uses two other expressions along with this expression. The exact language used under Section 3 of the RRU Act is "to which any loan, guarantee or other financial assistance has been provided". A bare reading of the portion extracted above clearly brings out that the term 'financial assistance' used herein to denote assistance of a nature other than that in the form of loan or guarantee.

24. We have already referred to the affidavit filed by the petitioner stating in clear terms that two of the industrial undertakings of the petitioner company i.e. its Suiting division at Alwar (Rajasthan) and its Petrofil Division at Baroda (Gujarat) are fully operational and collectively employ more than 1000 workmen. The affidavit also bears the fact that the current level of industrial production in both these divisions is upward Rs. 600 crores per annum. The affidavit also discloses that even in the yarn division of the petitioner company located at Alwar, which is only temporarily non-operational the petitioner has on its rolls a total of 1600 workmen and that the services of the said workmen have not been terminated till today and that the petitioner has been making serious efforts for revival of the industrial operations therein at the earliest. All the facts and circumstances set out above clearly make out a case in favor of the petitioner Company. The facts set out would show that one of the divisions of the petitioner company is lying temporarily closed, although the workmen employed therein continue to remain employed. Thus, the assertion of Sri C. K. Garg that the petitioner company does not have any workmen on its rolls and the Relief Undertaking Notifications could not have been issued for saving unemployment is, baseless and misconceived. The facts show that none of the industrial undertakings has been closed and all that has happened is that there has been a temporary cessation of production in one of the industrial undertakings, wherein the concerned employees continue to remain on roll. Therefore, the State Government with a view to prevent closure of such industrial undertaking, which would necessarily lead to unemployment of 1600 workmen employed therein, has interfered in the matter by declaring the said industrial undertakings as relief undertaking and thereby freezing all financial outflows relating to the said undertaking. A reading of the notification would show that it contains categorical recitals, disclosing thereby full application of mind on the

part of the State to each and every aspect of the matter which was material to the exercise of power under Section 3 of the RRU Act. In our opinion, the respondent Bank has not been able to establish the fact of non-application of mind in issuing the Notifications. This issue is answered as above.

(c) Whether Section 34 of the RDB Act nullifies the RRU Notification?

25. Before we proceed to consider and to deal with this principal issue, we may first set out in extensor Section 34 of the RDB Act and Section 4 of the BRU Act, which are as under :-

"34. Act to have overriding effect :-

(1) Save as provided under sub-section (2), the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this act.

(2) The provisions of this Act or the rules made there under shall be in addition to and not in derogation of, the Industrial Finance Corporation Act, 1948 (15 of 1948), the State Financial Corporation Act, 1951 (63 of 1951), the Unit Trust of India Act, 1963 (52 of 1963), the Industrial Reconstruction Bank of India Act, 1984 (62 of 1984), and [the Sic Industrial Companies (Special Provisions) Act, 1985 and the Small Industries Development Bank of India Act, 1989]"

Section 4 of the RRU Act:

"4. Power to specify industrial relations and other facilities temporarily for relief undertaking:-

(1) Notwithstanding any law, usage, custom, contract, instrument, decree, order, award, submission, settlement, standing order or other provisions whatsoever, the State Government may by notification in the Official Gazette, direct that-

(a) in relation to any relief undertaking and in respect of the period for which the relief undertaking continues as such under sub-section (2) of section 3 :-

(i) all or any of the laws mentioned in the Schedule to this Act or any provisions thereof shall not apply (and such relief undertaking shall be exempted there from) or shall, if so directed by the State Government, be applied with such modifications (which do not however affect the policy of the said laws) as may

be specified in the notification; and

(ii) all or any of the agreements, settlements, award or standing orders made under any of the laws mentioned in the Schedule to this Act, which may be applicable to the undertaking immediately before it was acquired or taken over by the State Government or before the issue of the notified order in respect thereof under Section 18A of the Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951) or before any loan, guarantee, or other financial assistance was provided to it by the State Government shall be suspended in operation, or shall, if so directed by the State Government, be applied with such modifications as may be specified in the notification, and,

(b) no suit or other legal proceeding shall be instituted or commenced, or if, pending shall be proceeded with, against any industrial undertaking during the period in which it remains a relief undertaking.

Explanation- "Legal proceeding' means any proceeding under any law before any Court, tribunal, officer, authority arbitrator, started on a plaint, petition of appeal, application, reference, or otherwise,

(2) The period, during which any suit or legal proceeding cannot be instituted or commenced because of the provisions of Clause (b) of sub-section (1), shall be excluded in computing the period of limitation prescribed by the Indian Limitation Act, 1908 (Central Act 9 of 1908) or any other law for the time being in force, for such suit or proceeding.

(3) A notification under sub-section (1) shall have effect from such date, not being earlier than the date referred to in sub-section (1) of Section 3, as may be specified therein."

Section 4 of BRU Act :-

"4. Power to prescribe industrial relations and other facilities temporarily for relief undertaking.

(1) Notwithstanding any law, usage, custom, contract, instrument, decree, order, award, submission, settlement, standing order or other provisions whatsoever, the State Government may, by notification in the Official Gazette, direct that-

(a) in relation to any relief undertaking and in respect of the period for which the relief undertaking continues as such under sub-section (2) of Section 3 :-

(i) all or any of the laws in the Schedule to this Act or any provisions thereof shall not apply (and such relief undertaking shall be exempted there from) or shall, if so directed by the State Government, be applied with such modifications (which do not however affect the policy of the said laws) as may

be specified in the notification.

(ii) All or any of the agreements, settlements, awards or standing orders made under any of the laws in the Schedule to this Act, which may be applicable to the undertaking immediately before it was acquired or taken over by the State Government [or before any loan, guarantee or other financial assistance was provided to it by, or with the approval of, the State Government] for being run as a relief undertaking, shall be suspended in operation or shall, if so directed by the State Government, be applied with such modifications as may be specified in the notifications;

(iii) Rights, privileges, obligations and liabilities shall be determined and be enforceable in accordance with Clauses (i) and (ii) and the notifications.

(iv) Any right, privilege, obligation or liability accrued or incurred before the undertaking was declared a relief undertaking and any remedy for the enforcement thereof shall be suspended and all proceedings relative thereto pending before any Court, tribunal, officer or authority shall be stayed;

(b) the right, privilege, obligation or liability referred to in Clause (a)(iv) shall, on a notification ceasing to have force, revive and be enforceable and the proceedings referred to therein shall be continued;

"Provided that in computing the period of limitation for the enforcement of such right, privilege, obligation or liability, the period during which it was suspended under Clause (a)(iv) shall be excluded notwithstanding anything contained in any law for the time being in force.

(2) A notification under sub-section (1) shall have effect from such date, not being earlier than the date referred to in sub-section (1) of Section 3, as may be specified therein and the provisions of Section 21 of the Bombay General Clauses Act, 1904, shall apply to the power to issue such notification."

26. At this juncture it is pertinent to notice that the question as to the constitutional validity of the Relief Undertaking Act and the question as to the correct scope and ambit of the said Acts and the question as to whether despite being said Acts being State Act, the said Acts can prevail over the provisions of the Central legislation, were examined by different High Courts and also by Hon'ble the Supreme Court in *Doburg Lager Breweries Pvt. Ltd. v. Dhariwal Bottle Trading Company* (AIR 1986 Supreme Court 1547) (supra). This Court in the case of *M/s. Jaysynth Dyechem v. Mewar Textiles Mills Ltd.*<sup>2</sup> held that the object of the Relief Undertaking Acts is to provide relief against employment, and that towards that objective, the State legislature is

empowered to suspend temporarily operation of certain laws, agreements and every form of legal proceedings. (para 4 at page 19). In the case of *Doburg Lager Breweries Pvt. Ltd. v. Dhariwal Bottle Trading Co.* (AIR 1986 Supreme Court 1547) (supra), their Lordships of the Supreme Court dealing with the issue of object of Relief Undertaking Acts held as under :-

"2. We are quite unhappy with the order of the Bombay High Court against which this appeal is filed. The grounds urged in support of the writ petition were fallacious, the reason given by the learned single Judge for allowing it were faulty and the order of dismissal of the appeal *in limine* passed by the Division Bench exhibits indifference. Courts are expected to show more concern and to give greater attention before quashing a statutory instrument made or issued under a beneficent legislation intended to prevent large scale unemployment and misery than what is shown by the High Court in this case.

(6) The effect of the abovementioned notification dated November 10, 1983 was that any right, privilege, obligation or liability accrued or incurred by the appellant company (except those mentioned therein) before it was declared a relief undertaking and any remedy for the enforcement thereof became suspended and all proceedings relative thereto pending before any Court, Tribunal, officer or authority came to be stayed automatically. Consequently the proceedings in the winding up petition (Company Petition No. 119 of 1982) filed by respondent 1 against the appellant company were also stayed by the Company Judge of the High Court.

(12) Section 1 of the Act sets out the short title of the Act and the extent of its application, Section 2 of the Act defines 'industry' and 'relief undertaking'. 'Relief undertaking' means an industrial undertaking in respect of which a declaration under Section 3 is in force. Section 3 of the Act and the material part of Section 4 have already been sent out above. Section 3 which is a self-contained one refers to the industrial undertakings in respect of which a declaration may be made under it. It is not controlled by the Preamble to the Act. An industrial undertaking which may be declared as a relief undertaking under Section 3 may be of two kinds. It may be an industrial undertaking started, acquired or otherwise taken over by the State Government and carried on or proposed to be carried on by the State Government or under its authority. It may also be an industrial undertaking to which any loan, guarantee or other financial assistance has been provided by the State Government. There should

be a declaration that an industrial undertaking of either kind should be conducted to serve as a measure of preventing unemployment or an unemployment relief. Then such an undertaking will be deemed to be a relief undertaking for the purposes of the Act. The consequences of such declaration are contained in Section 4 of the Act one of them being that the State Government gets the power to direct that notwithstanding any law, usage, custom, contract, instrument, decree, order, award, submission, settlement, standing order or other provision whatsoever any right, privilege, obligation, or liability accrued or incurred before the undertaking was declared as relief undertaking and any remedy for the enforcement thereof shall be suspended and all proceedings relative thereto, pending before any Court, tribunal, officer or authority shall be stayed. A notification issued under sub-section (1) of Section 3 is renewable by like notification from time to time for further periods not exceeding twelve months at a time, so however that for all the periods the aggregate does not exceed fifteen years. It is seen that the whole object of the Act is to sub serve the public interest and in particular to prevent unemployment or to grant unemployment relief."

27. As seen above, the effect of the notification is that any right, privilege, obligation or liability accrued or incurred by a notified company, before it is declared a relief undertaking and any remedy for enforcement thereof becomes suspended and consequently even the winding up proceedings against such company can be stayed. As a result of the notification, the State Government gets the power to direct that notwithstanding any law, usage, custom, contract, instrument, award, settlement or other provisions, whatsoever, any right, privilege, obligation or liability accrued or incurred before the undertaking was declared as relief undertaking, all proceedings related thereto pending before any Court, Tribunal, Officer or Authority shall be stayed. The same view has been taken by our High Court in the case of *M/s. Jaysynth Dychem v. Mewar Textiles Mills Ltd.* (AIR 1988 Rajasthan 16) (supra).

28. We shall now consider the contention of Sri C. K. Garg, in regard to the repugnancy between the two Acts namely the RDB Act and RRU Act, 1961. According to Sri Garg, the repugnancy is obvious and that the Notifications dated 15-2-2000 which are claimed to have the status of law by the counsel for the opposite side they have to be declared as repugnant as soon as they are being relied upon for the purpose of overdoing what has been provided in Section 34 of the RDB Act. It is

the contention of Sri Garg that Section 34 overrides all other Acts except those mentioned in sub-section (2) and they are five in number including the Sick Industrial Companies (Special Provisions) Act and that Relief Undertaking Acts including the RRU Act have not been excluded. Arguing further, the learned counsel submitted that there is inconsistency between the two Acts namely the RDB Act and RRU Act.

29. According to Mr. C. K. Garg it is well settled law that if there is conflict between the law enacted by the State legislation and by the Parliament, the legislation enacted by the Parliament shall prevail above the law enacted by the State legislation and to this extent the laws are inconsistent by virtue of Section 34 of the 1993 Act. In this regard he drew out attention to the salient features of the judgment of the Supreme Court in the case of *Allahabad Bank v. Canara Bank* <sup>3</sup> In this case, after referring to Sections 2(g), 17, 18, 19, and 31 and Chapter III of the RDB Act, their Lordships of the Supreme Court found that the jurisdiction of the Tribunal in regard to adjudication is exclusive and that the said Act requires the Tribunal alone to decide applications for recovery of debts due to banks or financial institutions. Referring to Section 18 of the Act he would submit that the jurisdiction of any other Court or authority which would otherwise have the jurisdiction but for the provisions of the Act, is ousted and the power to adjudicate upon the liability is exclusively vested in the Tribunal subject, however, to saving of the jurisdiction of the Supreme Court and High Court exercising power under Articles 226 and 227 of the Constitution and that this is the effect of Sections 17 and 18 of the Act. Mr. Garg invited our attention to paragraphs 30 and 34 of the judgment and contended that their Lordships of the Supreme Court while declining to give purposive interpretation as was given in favor of the jurisdiction and powers of the Company Court and as was held in *Sudarshan Chits (I) Ltd.*, (1984) 4 SCC 657 have held that the said principle, cannot be invoked in the present case against the Debt Recovery Tribunal in view of the special provisions contained there under. In the opinion of the Supreme Court, the very same principle mentioned above equally applied to the Tribunal/Recovery Officer under the RDB Act, 1993 because the purpose of the said Act is something more important than the purpose of Sections 442, 446 and 537 of the Companies Act. It was intended that there should be a speedy and summary remedy for recovery of thousands of crores which were due to the banks and to financial institutions, so that the delays occurring in winding up proceedings could be avoided. The Supreme Court was also of the opinion that even though there was no non obstante clause in regard to the exercise of powers of the Tribunal created under the LIC Act. The Supreme Court had held in the case of *Damji Valji Shah v.*

*LIC of India*, <sup>4</sup> that the power was exclusive and therefore, it was held that in case provision of Section 446 of the Companies Act will not operate on the proceedings which are pending before the Tribunal so created. Following Damji Valji Shah's case, the Supreme Court held that there is no need for the appellant to seek leave of the Company Court to proceed with its claim before the Debts Recovery Tribunal or in respect of the execution proceedings before the Recovery Officer. Nor can they be transferred to the Company Court. In para 31 it was stated that "It may also be noticed that in the LIC Act of 1956 there was no provision like Section 34 of the RDB Act giving overriding effect to the provisions of LIC Act. Still this Court upheld the exclusive jurisdiction of the LIC Tribunal observing as follows (Para 19) :-

"The provisions of the special Act, i.e. the LIC Act will override the provisions of the General Act, viz., the Companies Act which is an Act relating to Companies in General."

We are of the view that the appellant's case under the RDB Act - with an additional section like Section 34 - is on a stronger footing for holding that leave of the Company Court is not necessary under Section 537 or under Section 446 for the same reasons. If the jurisdiction of the Tribunal is exclusive, the Company Court cannot also use its powers under Section 442 against the Tribunal/ Recovery Officer."

30. In Para 40, their Lordships of the Supreme Court have held as under :-

"Alternatively, the Companies Act, 1956 and the RDB Act can both be treated as special laws, and the principle that when there are two special laws, the later will normally prevail over the former if there is a provision in the later special Act giving it overriding effect, can also be applied. Such a provision is there in the RDB Act, namely, Section 34."

31. While expounding the above mentioned proposition of law the Hon'ble Supreme Court also relied upon a judgment given by it in the case of *Maharashtra Tubes Ltd. v. State Industrial and Investment Corporation of Maharashtra* <sup>5</sup> It stated in relation to that case "where there was inconsistency between two special laws, the Finance Corporation Act, 1951 and the Sick Industrial Companies (Special Provisions) Act 1985. The later contained Section 32 which gave overriding effect to its provisions and was held to prevail over the former. It was pointed out by Ahmadi, J., that both

special statutes contained non obstante clauses but that the 1985 Act being a subsequent enactment, the non obstante clause therein would ordinarily prevail over the non obstante clause in Section 46B of the 1951 Act unless it is found that the 1985 Act is a general statute and the 1951 Act is a special law."

32. By relying all the cases the Hon'ble Supreme Court held that "Therefore, in view of Section 34 of the RDB Act the said Act overrides the Companies Act, to the extent there is anything inconsistent between the Acts."

33. In support of the above contentions, Mr. Garg placed reliance on the Judgment of the Supreme Court in *Barium Chemicals Ltd. v. A.J. Rana*

34. Mr. Paras Kuhad while answering the issue raised by Mr. Garg submitted that the question that arises for consideration is whether any Central Act can under the scheme of the Constitution of India, interfere with or suspend the operation of a valid State Act, enacted by a State legislature, directly within the scope of powers exclusively reserved for it under the Constitution. Our attention was drawn to Article 254 of the Constitution of India. Mr. Kuhad elaborately argued the issue as to the circumstances under which a Parliament can override a State legislation. This issue was examined by the Supreme Court in the case of *M/s. Hoechst Pharmaceuticals Ltd. v. State of Bihar*,<sup>7</sup> The issue therein was as to under what circumstances and in respect of which nature of legislations could a repugnancy be said to exist between the two Acts. The facts therein were that in exercise of the power under the Essential Commodities Act (a Central Legislation), the sub-ordinate legislature had issued Drugs (Price Control) Order, 1979. The said control order sought to fix the prices of the drugs. The Bihar State Legislature then levied a surcharge in exercise of its powers under the Bihar Finance Act, 1981. Before the Supreme Court, it was argued that the provisions of Bihar Finance Act which provided for levy of surcharge and also stated that the burden of such surcharge shall not be passed on to the consumers, but shall instead be borne by the dealers, was repugnant to the provisions of the Drugs (Price Control) Order, 1979, which order had while fixing the drug prices, specifically permitted dealers to pass on the burden of sales tax to the consumers. The Supreme Court examined the issue as to what is the meaning of the term 'repugnancy' in the context of the issue of conflict of legislations. The Supreme Court has held the question of repugnancy under Article 254 of the Constitution can never arise between a law made by a Parliament and a law made by the State legislature, unless both legislations

occupy the same field and with respect to one of the matters enumerated in the Concurrent List and there is a direct conflict between the two Lists. The Supreme Court has held that only when both these requirements are fulfilled that the State law will, to the extent of repugnancy become void. The Supreme Court in this context has also referred to the judgment in A.S. Krishna's case , AIR 1957 Supreme Court 297 and also Ch. Tika Ramji's case, AIR 1956 Supreme Court 676. In Ch. Tika Ramji's case, their Lordships of the Supreme Court have observed that no question of repugnancy under Article 254 of the Constitution could arise where Parliamentary legislation and State legislation occupy different fields and deal with separate and distinct matters even though of a cognate and allied character and that where as in that case, there was no inconsistency in the actual terms of the Act enacted by Parliament and the State Legislature relatable to Entry 33 of List III, the test of repugnancy would be whether Parliament and State Legislature, in legislating on any entry in the Concurrent List exercised their powers over the same subject -matter or whether the laws effected by Parliament were intended to be exhausted as to cover the entire field, and added. Thus, before deciding the question of repugnancy, the following conditions have to be satisfied :-

- (a) That both legislations occupy the same field ;
- (b) That both legislations are with respect to one of the matters enumerated in the Concurrent List; and;
- (c) That there is a direct conflict between the two laws.

35. The repugnancy referred to under Article 254 of the Constitution is of a specific kind i.e. a repugnancy between the Union and State law must have reference only to the Concurrent Lists. As observed in the case of Teekaramji, ( AIR 1956 Supreme Court 676) by the Supreme Court there can be no question of repugnancy under Article 254 of the Constitution of India. where the Parliament and the State Legislatures occupy different fields or deal with different matters and where there is no direct inconsistency in actual terms of such Acts.

36. The Supreme Court in the case of Doburg Lager Breweries Pvt. Ltd. ( AIR 1986 Supreme Court 1547) (supra) held that Relief Undertaking Acts are legislations enacted under Entry 23 of List III of the concurrent list. Thus, while the substantive part of the provisions which deal with the State's competence to declare certain undertakings as relief undertakings for preventing unemployment represent an

exercise of the State legislature's power under Entry 23 of Concurrent List III, as far as provisions with respect to barring of legal proceedings are concerned, represent an exercise of power under Entry 65 of List II of the Constitution. (According to Jayanth's case, ( AIR 1988 Rajasthan 16).

37. In this back ground it would be clear that the RDB Act enacted by the Parliament being a legislation with respect to the Banking is in respect of substantive provisions of legislation an Act under Entry 45 (Banking) of List I, and as far as the provisions contained therein with respect to exclusion of jurisdiction of other courts and conferment of exclusive power on DRT for adjudication is concerned, the said provisions are representing a case of exercise of power under Entry 95 of List I. It is thus , clear that while the RDB Act represents an exercise of power under Entries falling under List I of the Constitution i.e. Entries 45 and 95 of List I, the Relief Undertaking Acts represent an exercise of powers, firstly under the State List i.e. Entry 65 of List II and secondly under Entry 23 of the Concurrent List III.

38. However, Sri Garg, learned Counsel for the respondent Bank countering the arguments made on behalf of the petitioner, has submitted that it is wrong to say that RDB Act has been enacted under Entry 46. In fact Entry 45 deals with banking. Mere mention of Banking in the Entry 45 of Schedule I does not mean that recovery proceedings would be covered by the said Entry. Recovery proceedings are to be governed by virtue of Entry 11A which has been introduced by amendment in the concurrent list. At this stage, the argument of Sri Garg is that looked from that point of view both the Acts, namely, RDB Act and RRU Act would be deemed to have been enacted under the Concurrent List. Entries 22, 23, 24 and 33-A of the List III of 7th Schedule are relevant. This submission was made by the learned Sr. Counsel with a view to meet with the submissions on the part of the petitioner that for purpose of finding repugnancy the two Acts would have been enacted from some Entries in the Concurrent List.

39. Considering the arguments advanced by the learned counsel appearing on either side, it is clear that it is impossible to state that both legislations are an emanation of the power under the Concurrent List. Clearly enough, they do not represent a case of absolute emanation of power under Concurrent List. Except for one part of the State Act which represents an exercise of power under the Concurrent List in all other respects the two legislations represent an exercise of power under different Entries of

Lists I and II. Thus, the very first requirement of Article 254 that both legislations should be with respect to Entries under the concurrent List, before a plea of repugnancy is raised, is wholly unsatisfied. It has not been established that both legislations represent an exercise of power under the same Entries of the Concurrent list and the basic requirement in this regard as held by the Supreme Court in the case of *M/s. Hoechst Pharmaceuticals Ltd. v. State of Bihar*, (AIR 1983 Supreme Court 1019) (supra) is that both legislations should occupy the same field and both legislations should be with respect to the same matter under the Concurrent List. In our opinion, the two legislations in question deal with two separate and distinctive matters. The said legislations occupy two different fields. The Central legislation occupies the field of Banking under List I and provides for the incidental issue of adjudication of banking disputes, while the State legislation occupies the field of social security and providing unemployment relief falling under the Concurrent List. Thus, the parliamentary legislation and the State legislations occupy different fields and deal with separate and distinctive matters. Thus, in our opinion, the plea of repugnancy is not available to the respondent Bank. The Supreme Court held that once a notification is issued it operates so as to create an absolute moratorium against the continuance of any proceedings against a relief undertaking. The same proposition was laid down in the case of *Doburg Lager Breweries Pvt. Ltd.* (AIR 1986 Supreme Court 1547) (supra). Thus, in view of the above rulings, the argument of the respondent Bank has no merit.

40. Sri C.K. Garg, learned Sr. Counsel appearing on behalf of the respondent Bank has placed reliance on the judgment of the Supreme Court in the case of *Allahabad Bank v. Canara Bank* (AIR 1984 Supreme Court 1579) (supra). We have perused the said judgment. The said judgment in our opinion has no application so far it relates to the controversy in the present case. In that case, the issue was as to repugnancy between the Central Legislations i.e. the RDB Act and the Companies Act. Undisputedly, both legislations represented an exercise of power under List I of the Constitution. In that context all that was laid down by the Supreme Court was that both legislations are special legislations and the later one is to prevail over the other. It is in this context that the Supreme Court entered into the question of the purpose of Section 446 of the Companies Act and as against the purpose underlying the RDB Act. In the present case, it is noteworthy that there was no controversy herein as to the existence of repugnancy between the two legislations. The existence of repugnancy was not even questioned. Their Lordships of the Supreme Court in the case of *Allahabad Bank's*

(supra) found that both Section 17 of the RDB Act and Section 446 of the Companies Act deal with the issue as to which forum was to be competent to adjudicate the claim. The Supreme Court noted that Section 17 of the RDB Act had created an exclusive forum for bank's debts and Section 446 also provided for an exclusive forum for adjudication of debts pertaining to a company under winding up. Thus, while in the context of the law operative in respect of debtor company, the law was that the company Court alone would be the competent forum in the context of law laid down in relation to the creditor Banks the law (RDB Act) was that the forum (sic)?

41. In the case of *Danji Balai* , AIR 1965 Supreme Court 135, the Supreme Court "dealt with the same situation, namely the question of choosing between two different forums i.e. the forum created under the LIC Act and another under the Companies Act both operating in respect of adjudication of same class of disputes. In view of the fact that in the case of *Allahabad Bank v. Canara Bank*, ( AIR 2000 Supreme Court 1535) (supra) as also in the case of *Danji Balaji* (supra), the Supreme Court was not dealing with the issue of repugnancy between the State legislation and the Central legislation i.e. the issue of repugnancy in the context of Article 254 of the Constitution of India and in those cases, the issue considered was as to the existence of repugnancy between two Central legislations enacted by the same Legislature.

42. In *M. Karunanidhi v. Union of India*, the Supreme Court while examining the issue as to the correct meaning of the term 'repugnancy', has enunciated the following propositions (para 35) :-

- I. That in order to decide the question of repugnancy it must be shown that the two enactments contain inconsistent and irreconcilable provisions, so that they cannot stand together or operate in the same field.
- II. That there can be no repeal by implication unless the inconsistency appears on the face of the two statutes.
- III. That where the two statutes occupy a particular field but there is room or possibility of both the statutes operating in the same field without coming into collision with each other no repugnancy results.
- IV. That where there is no inconsistency but a statute occupying the same field seeks to create distinct and separate offences, no question of repugnancy arises and both the statutes continue to operate in the same field. From the above it is clear that the inconsistency or repugnancy between two statutes will arise only

if those statutes are pertaining to subject of the same list and occupy the same field. Thus, arguments of repugnancy cannot arise in legislation pertaining to different lists.

43. So far as the provisions of RDB Act and RRU Act are concerned, both the legislations are valid laws made by different legislatures exercising powers under different lists. The RDB Act and RRU Act deal with different subjects. The fields occupied by the two statutes in their pith and substance are separate and there is no direct inconsistency between RDB Act and RRU Act. As held by the Supreme Court between two validly passed enactments pertaining to the same list, conflict is permissible if there is no defect inconsistency between the two. Then a duty casts on the courts to harmoniously construe the two provisions. Thus, the principle of harmonious interpretation has been evolved. Further since List I and List II relate to exclusive domain of the Centre and the State respectively, no inconsistency between the two can arise. Repugnancy can arise only in respect of laws made in concurrent List, List III. We would be in this prospect unable to accept the arguments of Sri C.K. Garg, learned Sr. Counsel appearing for the respondent Bank. Once a relief undertaking Notification is issued, the State is competent to suspend legal proceedings of all kinds including the proceedings instituted under the Central Legislation.

44. For the foregoing reasons, we are of the opinion that the proceedings initiated by respondent Bank before the Debt Recovery Tribunal, Jaipur for recovery of its dues, due from the petitioner Company stands stayed till the expiry of the period mentioned in the Notification dated 15th of Feb. 2000 issued by the State of Rajasthan under the RRU Act. The respondent Bank may proceed further for recovery of the dues from the writ petitioner after expiry of the period of one year as mentioned in the Notification and can proceed further in the very same original application No. 431/2000 and obtain appropriate orders. The writ petitioner shall not alienate, encumber any of its movable or immovable assets/items which have been hypothecated/mortgaged in favor of the respondent Bank.

45. The writ petition is ordered accordingly.

Order accordingly.

Cases Referred.

1. (1986) 2 SCC 382
2. AIR 1988 Raj 16
3. (2000) 4 SCC 406
4. AIR 1966 SC 135
5. (1993) 2 SCC 144
6. (1972) 1 SCC 240
7. AIR 1983 SC 1019
8. (1979) 3 SCC 431