

# IN THE COURT OF SENIOR CIVIL JUDGE- 1 AIZAWL DISTRICT :: AIZAWL

CIVIL SUIT NO. 80 OF 2011

Plaintiff/ Petitioner:

Vijaya Bank  
(Wholly owned by Govt. of India)  
Having Head Office at No. 41/2  
M.G. Road, Bangalore- 560001  
Represented by the Chief Manager  
Bara Bazar, Aizawl- 796001

*By Advocates* : 1. Mr. W. Sam Joseph  
2. Mr. F. Lalenglina  
3. Mr. Hranghmingthanga Ralte

*Versus*

Defendants/ Respondents:

1. Mr. Samir Deb  
S/o Late R. Deb  
B. 28, 2<sup>nd</sup> Floor  
Zodinglana Building  
Zarkawt- Aizawl

2. Mr. C. Saihlira  
S/o Rokiamlovi (L)  
Kulikawn, Aizawl

*By Advocates* :

*For the defendant no. 2* : Mr. C. Zoramchhana

Date of Hearing : 01-12-2011

Date of Order : 01-12-2011

**BEFORE**

Dr. H.T.C. LALRINCHHANA, Sr. CJ- 1

**ORDER**

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This is a suit for recovery of Rs. 75,81,533/- with 13% per annum interest with effect from 1<sup>st</sup> September, 2011 till date of settling the account, by sale of the mortgage property under LSC No. 617 of 1980, cost and other consequential relief.

While the suit is at the stage of written statements, Mr. W. Sam Joseph, learned counsel for the plaintiff filed an application to transfer the case to the Debts Recovery Tribunal, Guwahati under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (Act No. 51 of 1993) constituted under No. G.S.R. 7 (E) dated, 7<sup>th</sup> Jan., 1997 and No. G.S.R. 688 (E) dated, 5<sup>th</sup> Dec., 1997 also having territorial jurisdiction over to the state of Mizoram.

Section 1 (4) of the Debts Recovery Tribunal, Guwahati under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 is relevant to note that-

“1.(4) The provisions of this Act shall not apply where the amount of debt due to any bank or financial institution or to a consortium of banks or financial institutions is less than ten lakh rupees or such other amount, being not less than one lakh rupees, as the Central Government may, by notification, specify.”

Section 17 of the Debts Recovery Tribunal, Guwahati under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 specifically mentioned the jurisdiction of the Tribunal as follows-

**“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.

(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.”

Section 18 of the Debts Recovery Tribunal, Guwahati under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 barred other civil courts like the instant court, it reads thus-

**“18.Bar of jurisdiction.**

On and from the appointed day, no court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority (except the Supreme Court, and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to the matters specified in section 17.”

Section 31 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 also insisted to transfer the cases to the concerned Tribunal in the following terms-

**“31.Transfer of pending cases.**

(1) Every suit or other proceeding pending before any court immediately before the date of establishment of a Tribunal under this Act, being a suit or proceeding the cause of action

whereon it is based is such that it would have been, if it had arisen after such establishment, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal:

Provided that nothing in this sub- section shall apply to any appeal pending as aforesaid before any court.

(2) Where any suit or other proceeding stands transferred from any court to a Tribunal under sub- section (1),-

(a) the court shall, as soon as may be after such transfer, forward the records of such suit or other proceeding to the Tribunal; and

(b) the Tribunal may, on receipt of such records, proceed to deal with such suit or other proceeding, so far as may be, in the same manner as in the case of an application made under section 19 from the stage which was reached before such transfer or from any earlier stage or de novo as the Tribunal may deem fit.”

Mr. W. Sam Joseph further relied in the decisions of Hon’ble Sikkim High Court in **P.K. Saraswat, T.P. Sharma, Ravi vs Union Of India (Uoi) And Ors.** decided on 4 September, 1998, it was held that-

“19. The District Judge (South and West) is directed to pass orders under the provisions of Section 31 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, in Civil Suit No. 11 of 1998 within ten days from the date of receipt of the order and shall transmit the records of Civil Suit No. 11 of 1998, to the Debt Recovery Tribunal, Guwahati, immediately.”

The law is very clear in the light of the observations of Hon’ble Supreme Court in **Greater Bombay Co-Op. Bank Ltd vs M/S United Yarn Tex. Pvt. Ltd. & Ors** decided on 4 April, 2007 in connection with Appeal (civil) 432 of 2004 reported in 2007 AIR 1584, 2007 (4) SCR 823, 2007 (6) SCC 236, 2007 (5) SCALE 366, 2007 (5) JT 201, wherein, the Supreme Court has opined that-

“The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 [‘the RDB Act’] was enacted by the Parliament with the objects and reasons for the recovery of the debts due to the banks. Before the coming into force of the RDB Act, the banks were approaching Civil Courts for recovery of their debts from the defaulters by filing civil suits before the Civil Courts of competent jurisdiction. After the coming into force of the RDB Act on the 25th day of June 1993, the jurisdiction of the Civil Courts was taken away. The decision to have separate Bank Tribunals was taken by the Central Government after considering the increasing workload of the Civil Courts and delay in disposal of the bank suits.”

## ORDER

Thus, there is no option, except to grant the application forthwith. By virtue of S. 31 read with S. 1 (4) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the instant case is hereby transferred to the Debts Recovery Tribunal under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, Guwahati, Assam. The case record will also transmit to the said Debts Recovery Tribunal immediately.

With this order, the petition shall stand disposed of

Give this order copy to all concerned.

**Dr. H.T.C. LALRINCHHANA**

Senior Civil Judge- 1  
Aizawl District: Aizawl

Memo No. CS/80/2011, Sr. CJ (A)/

Dated Aizawl, the 1<sup>st</sup> Dec., 2011

Copy to:

1. Registrar, Debts Recovery Tribunal under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, Guwahati, Assam
2. Vijaya Bank (Wholly owned by Govt. of India), Having Head Office at No. 41/2, M.G. Road, Bangalore- 560001 Represented by the Chief Manager, Bara Bazar, Aizawl- 796001 through Mr. W. Sam Joseph, Adv.
3. Mr. Samir Deb S/o Late R. Deb, B. 28, 2<sup>nd</sup> Floor, Zodingliana Building
4. Zarkawt- Aizawl C/o Mr. W. Sam Joseph, Adv.
5. Mr. C. Saihlira S/o Rokiamlovi (L), Kulikawn, Aizawl through Mr. C. Zoramchhana, Adv.
6. P.A. to Hon'ble District & Sessions Judge, Aizawl Judicial District: Aizawl
7. Case record

PESKAR