

Serial No. 03
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Review Pet. No. 9 of 2022

Date of Decision: 10.03.2023

Shri. Manik Dhar

Vs.

Indian Overseas Bank & Anr.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. K. Paul, Sr. Adv. with
Mr. S. Thapa, Adv.
Mr. S. Chanda, Adv.

For the Respondent(s) : Mrs. T. Yangi. B, Sr. Adv. with
Ms. I.M. Lyngdoh, Adv.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

Oral:

1. This is a Review Application seeking review of judgment and order dated 28.07.2022, passed by this Court in CRP No. 14 of 2016, dismissing the same on the ground of availability of alternate relief.

2. The only ground for review is the error that has crept in while passing the order dated 28.07.2022, more particularly at Para – 15 thereof, wherein instead of ‘Recovery Officer’ the word ‘Tribunal’ has been used, which has changed the complexion of the order in question, inasmuch as, there is a difference between a Recovery Officer, and a Presiding Officer of the Tribunal, as spelt out in the defining section of the Recovery of Debts and Bankruptcy Act, 1993.

3. This Court has perused the same and notes that, this error is apparent on the face of the record itself. Accordingly, the prayer for review of that part of the judgment and order dated 28.07.2022, wherein the word ‘Tribunal’ has been used instead of ‘Recovery Officer’ is allowed. Consequently, at Para – 15 of the judgment is recalled and the same shall now read as follows:

15. The proceedings were initiated under Section 19 of the Act, praying for issuance of recovery certificate for the sum of Rs. 1,44,97,391/- (Rupees One Crore Forty-Four Lakhs Ninety-Seven Thousand and Three Hundred Ninety-One only), which was granted by the Debts Recovery Tribunal on 29.05.2008. The Learned Presiding Officer thereafter issued a certificate under Section 19(22) of the Act, directing the Recovery Officer to realise the amount as per the certificate, wherein the

*Recovery Officer thereafter, pursuant to the said certificate passed the impugned orders. The petitioner herein, though clearly being aggrieved with orders normally appealable under Section 30 of the statute itself, however, chose to approach this Court by way of the instant application under Article 227 by invoking the doctrine of **stare decisis**, however, without having any other issue such as, lack of jurisdiction or any grave procedural irregularity that may have been occasioned before the Recovery Officer. On perusal of the impugned orders passed, the petitioner has adequate alternative remedy as provided in the Act, that is, Section 30 which is reproduced hereinbelow.*

“30. Appeal against the order of Recovery Officer.- (1) Notwithstanding anything contained in section 29, any person aggrieved by an order of the Recovery Officer made under this Act may, within thirty days from the date on which a copy of the order is issued to him, prefer an appeal to the Tribunal.

(2) On receipt of an appeal under sub-section (1), the Tribunal may, after giving an opportunity to the appellant to be heard, and after making such inquiry as it deems fit, confirm, modify or set aside the order made

by the Recovery Officer in exercise of his powers under sections 25 to 28(both inclusive).”

4. Similarly, at Para – 3 and 4 of the judgment, where the word ‘Tribunal’ appears the same should read as ‘Recovery Officer’.
5. This Review Application to the extent indicated above is accordingly allowed and disposed of.
6. Interim order if any shall also stand vacated.

Judge

Meghalaya
10.03.2023
“D.Thabab-PS”

