



CWP-17062-2021(O&M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-17062-2021(O&M)
Reserved on:17.09.2025
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*Whether only operative part of the judgment is
pronounced or the full Judgment is pronounced.*

Full Judgment

SANJIV KUMAR JAIN AND ANOTHER

PETITIONERS

VS.

HDFC BANK LIMITED AND OTHERS

RESPONDENTS

**CORAM:- HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV BERRY**

Present:- Mr. Alok Mittal, Advocate
and Mr. Shubham Thakur, Advocate,
for the petitioners.

Mr. Narender Hooda, Senior Advocate,
with Mr. Rishab Rai Jain, Advocate,
and Mr. Naveen Sharma, Advocate,
for respondent Nos. 1 and 2-Bank.

SANJIV BERRY, J.

1. The petitioners have filed the instant civil writ petition under Article 226/227 of the Constitution of India, praying for issuance of writ of Certiorari thereby setting aside the impugned orders dated 02.01.2017 (Annexure P-20) passed by the Debt Recovery Appellate Tribunal, New Delhi in the appeal filed by the petitioners bearing No. 271/2016 and dated 22.04.2016 (Annexure P-19) passed by the learned Debt Recovery Tribunal-I, Chandigarh in OA No. 846/2013.



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2. The facts of the case, in brief, are that the premises of the petitioner was leased out to the respondent Bank as per the lease deed dated 25.09.2002 (Annexure P-1) and deposit agreement dated 25.09.2002 (Annexure P-2) was also executed followed by Supplementary Deposit Agreement dated 26.11.2002 (Annexure P-3). The aforesaid lease agreement created relationship of petitioners being landlord as lessor and the Bank being lessee in the premises. Thereafter supplementary lease agreement dated 01.04.2006 (Annexure P-4) followed by fresh/renewed indenture of lease dated 25.09.2011 (Annexure P-5), were also executed. The dispute started on the Bank issuing termination of tenancy notice dated 18.09.2012 (Annexure P-6). The petitioner responded to the notice vide Annexure P-7 dated 02.10.2012 intimating the Bank that before handing over the possession, the water and electricity charges should be cleared and Bank should handover the possession of the property in the same condition as it was when the property was given on lease in the year 2002.

2.1 The Bank intimated the petitioner vide letter dated 02.11.2012 (Annexure P-8) that they had vacated the premises and asked the petitioner to take over the possession., Thereafter, a dispute started between the parties and rent petition was filed before the Rent Controller, Chandigarh wherein provisional rent was assessed and ultimately the same was withdrawn vide order dated 07.11.2013 (Annexure P-12).

2.2 Thereafter, the petitioner filed a civil suit for recovery of ₹1,27,96,137/- towards arrears of rent. After adjustment of security amount before learned Civil Judge (Sr. Division), Chandigarh. The civil suit was decreed vide judgment and decree dated 30.11.2017 (Annexure P-13).

2.3 An appeal was preferred by the respondent Bank challenging the judgment and decree dated 30.11.2017 (Annexure P-13) passed by Civil Judge



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(Sr. Div.), Chandigarh. Ultimately the appeal was dismissed by learned Additional Sessions Judge, Chandigarh vide order dated 17.08.2019 (Annexure P-14) upholding the judgment and decree passed by the Civil Court in favour of the petitioners.

2.4 The Bank filed a Regular Second Appeal RSA No. 4796 of 2019 which was allowed vide order dated 02.12.2020 (Annexure P-15). The petitioner then preferred an SLP No. 7989 of 2021 but the same was also dismissed by Hon'ble Supreme Court vide order dated 23.07.2021 (Annexure P-16).

2.5 In the meanwhile, the Bank had filed an OA No.846-2013 before the DRT-I, Chandigarh wherein an application under Order 7 Rule 11 of CPC read with Section 151 CPC moved by the petitioners (Annexure P-17) bearing IA No. 457 of 2014 in which reply (Annexure P-18) was filed and vide order dated 22.04.2016 (Annexure P-19), this application of the petitioner was dismissed.

2.6 An appeal against the same was preferred before Debt Recovery Appellate Tribunal, Delhi (DRAT) vide Misc. Appeal No. 271/2016 which was disposed of vide order dated 02.01.2017 (Annexure P-20).

2.7 Aggrieved by the same the petitioner preferred Civil Writ Petition No. 1634-2017 wherein stay was granted vide order dated 31.01.2017 (Annexure P-21) and ultimately decided vide order dated 20.03.2018 (Annexure P-22) with the following observations: -

“ [4] In the light of these undisputed facts re: the bank's claim for refund of its security amount subject to payment of arrears of rent to the petitioners, which are more than the bank's security amount, we are satisfied that continuation of proceedings before the Debts Recovery Tribunal, Chandigarh at this juncture, is an exercise in futility. Still further, whether or not the bank is liable



to pay arrears of rent, is a question which would be decided in the civil appeal filed by the Bank against the trial Court decree. Consequently, the writ petition is allowed in part and the proceedings arising out of OA No.846 of 2013 are directed to be kept in abeyance till the matter is sub-judice before the 1st Appellate Court or further it is made clear that the parties shall be well within their right to raise their respective contentions, if any, after the decision of the civil suit proceedings. Obviously, the petitioners shall be at liberty to challenge the order(s) passed by the Debts Recovery Tribunal or the Debts Recovery Appellate Tribunal, if so required, after the final decision of the Civil Court proceedings”

3. On the basis of the above said decision, after culmination of the civil dispute vide Annexure P-16 by the Hon’ble Supreme Court, the instant petition has been preferred by the petitioners.

4. We have heard counsel for the parties and also perused the record.

5. The issue involved in the present petition is as to whether the amount of refundable security retained by the landlord would constitute a debt within the meaning of Section 2(g) of the Recovery of Debts Due to the Banks and Financial Institution Act, 1993 (for short Act of 1993) so as to give a right to tenant Bank to maintain the proceedings under Section 19 of the Act of 1993 for recovery of debt security.

6. The learned counsel for the petitioner has relied upon the judgment of Division Bench of Bombay High Court cited as **HDFC Bank Ltd. vs. Vasudeo Shripad Belvalkar; Law Finder Doc Id#1270756** and argued that unpaid security deposit would not come within the meaning of word “**debt**” under Section 2(g) of the Act of 1993 and as such proceedings under Section 17 instituted by the Bank for recovery of the said amount of unpaid security



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deposit will not be maintainable. He submits that this judgment of Division Bench of Bombay High Court **HDFC Bank's case (supra)** had been challenged by way of SLP in Hon'ble Supreme Court by the Bank but the same was dismissed vide order dated 15.02.2019 in SLP No. (C) No. 3725/2019.

7. On the contrary learned Senior Counsel for the respondent has assailed these arguments by relying upon the judgment of Hon'ble Supreme Court in **Eureka Forbes Limited Vs. Allahabad Bank & Ors. 2010 (6) SCC 193**; to argue that such unpaid security deposit will fall within the purview of Section 2(g) of the Act and the proceedings initiated before the Debt Recovery Tribunal are legal and maintainable hence prayed for dismissal of the petition.

8. Before proceeding further, it would be apt to have a glance on the relevant provisions contained in RDB Act, 1993 which reads as under:-

2. Definitions. —In this Act, unless the context otherwise requires, —

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(g) "debt" means any liability (inclusive of interest) which is claimed as due from any person 7 [or a pooled investment vehicle as defined in clause (da) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956)] by a bank or a financial institution or by a consortium of banks or financial institutions during the course of any business activity undertaken by the bank or the financial institution or the consortium under any law for the time being in force, in cash or otherwise, whether secured or unsecured, or assigned, or whether payable under a decree or order of any civil court or any arbitration award or otherwise or under a mortgage and subsisting on, and legally recoverable on, the date of the application 1 [and includes any liability towards debt securities which remains unpaid in full or part after notice of ninety days served upon the borrower by the debenture trustee or any other authority in



whose favour security interest is created for the benefit of holders of debt securities or;]]

[(ga) “debt securities” means debt securities listed in accordance with regulations made by the Securities Exchange Board of India under the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

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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.

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9. In the present case, admittedly the premises of the petitioner was leased out to the respondent Bank as per the lease deed initially on 25.09.2002 (Annexure P-1) along with deposit agreement (Annexure P-2) which was subsequently renewed on 01.04.2006 (Annexure P-4) and then followed by indenture lease deed dated 25.09.2011 (Annexure P-5). In the meanwhile, on account of termination of tenancy by the Bank, litigation started *inter se* parties. The petitioner preferred ejectment petition before the Rent Controller followed by civil suit for recovery of arrears of rent and electricity charges due from the respondent Bank, whereas OA No. 846/2013 was filed by the respondent Bank before the DRT-I, Chandigarh seeking recovery of the Security deposit claiming the same to be ‘**debt due**’.

10. Considering the facts and circumstances of the case as well as the relevant provisions of law, the answer to the abovesaid issue, which arises in the present petition as to whether the security deposit falls within the definition of ‘debt’ so as to make original application before the Debt Recovery Tribunal



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maintainable under the Act of 1993, the answer is in negative, because the security deposit in a landlord tenant relationship cannot be termed as Banking transaction within the meaning of Section 2(g) of the Act defining the word “debt”. The decision of Division Bench of Bombay High Court (supra) was relied upon and upheld by the Hon’ble Supreme Court by dismissing the SLP supports such view as in the similarly situated case, it has been observed therein that the claim for refund of security deposit given against the licensed premises by the Bank does not fall within the purview of ‘debt’ within the meaning of Section 2(g) of the Act of 1993. The relevant portion of the judgment is reproduced as under: -

“12. Thus, the following questions, are to be answered:

(i) whether refund of security amount (against licensed premises) claimed by the Bank in the proceedings before the DRT under the said Act can be said to be a “debt” due and recoverable by the Bank within the meaning of section 2(g) of the Recovery of Debts Due To Banks And Financial Institutions Act, 1993 ? No.”

11. So far as the reliance placed by the learned counsel for the respondent on the judgment cited as ***Eureka Forbes case (supra)*** is concerned that itself has been distinguished in the aforesaid judgment of Bombay High Court (supra) because ***Eureka Forbes case (supra)*** petitioner company was not a debtor but a third party who had given its premises on lease to respondents, who in turn had hypothecated the goods to the Bank whereas in the present case petitioner happens to be the landlord of the premises which was leased out to the respondents Bank and there was unpaid security deposits for the purpose.

12. Considering the facts of the case and the findings given by different Courts concerning the *inter se* litigation between the parties herein, it transpires that there existed the relationship of landlord and tenant between the



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tenancy does not in any manner fall within the definition of Banking transactions or for that matter, a 'debt' within the parameters assigned by the Act of 1993. The respondent Bank has filed the Original Application claiming the said security amount to be 'debt' due and recoverable by the bank by approaching the Debt Recovery Tribunal which is manifestly wrong and incorrect approach. Such security deposit does not come within the parameters and definition of word 'debt' as defined in Section 2(g) of the RDB Act 1993 as has been substantiated by the decision in **HDFC Bank's case (supra)**.

13. Once such security deposit does not fall within the purview of Section 2(g) of the Act defining "debt", the Tribunal (DRT in the present case) would have no jurisdiction, as per Section 17 of RDB Act 1993, which provides that the Tribunal shall exercise, on and from the appointed day, jurisdiction, powers and authority to entertain and decide applications from the Banks and Financial Institutions for the recovery of the 'debt' due to such Banks and Financial Institutions. Since the Security deposit in the present case arises out of a lease agreement between the landlord and tenant, wherein the respondent Bank is tenant, it does not fall within the purview and therefore, cannot be termed as 'debt' within the meaning of Section 2(g) of the Act. Resultantly, the tribunal had no jurisdiction to entertain any such application or proceedings under Section 17 of the Act.

14. As a result of the above discussion, we are of the considered view that the security deposit in the present case is not a 'debt' within the meaning of the Section 2(g) of the Act of 1993 and consequently any proceedings in the form of Original Application instituted under Section 17 of the Act by the Bank for the recovery thereof is not maintainable.

15. Therefore, in these circumstances the instant petition is hereby disposed of by issuing a writ of certiorari thereby setting aside the impugned order dated 02.01.2017 (Annexure P-20) passed by Debt Recovery Appellate Tribunal in Appeal No. 271/2016 and also the impugned order dated 22.04.2016 (Annexure P-19) passed by the Debt Recovery Tribunal-I, Chandigarh, being not sustainable.
16. With the aforesaid observations, the writ petition stands disposed of.

(SANJIV BERRY)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

Dated: 24.12.2025
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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No