**IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT CHENNAI**

Dated the 08th of October, 2025

**PRESENT: Hon'ble Mr. *Justice G.* Chandrasekharan**
CHAIRPERSON

## RA 20/2023, RA 21/2023, RA 22/2023 and RA 23/2023

(O.A. 848 of 2018, O.A. 820 of 2018, *Appeal against order dated 04/04/2019 passed in Original Application No.115 of 201 and* O.A.691 of 2018 respectively *the file of DRT -II, Chennai)*

R.A No 20 of 2023

*Between*

Tamilnad Mercantile Bank Ltd
Arni Branch,
No.38, Thatchur Road, Arni - 632 301
Thiruvannamalai District
Rep. by its Manager

.... Appellant

And

1. Mr. R.Suresh S/o Rajarathinam
   H-539, Phase-I, Muthuampalayam
   Erode- 638 009

2. Mr. K. Suresh S/o A. Kandasamy,
   No.l39/1, Avallappa Swamy Kovil Street
   Virudhunagar Town - 626 00l
   Virudhunagar District

.... Respondents

R.A No 21 of 2023

Between

Tamilnad Mercantile Bank Ltd
Arni Branch,
No.38, Thatchur Road, Arni - 632 301
Thiruvannamalai District
Rep. by its Manager

.... Appellant

And

1. Mr.R. Vadharajan, S/o T.R.Rangasamy,
   No.9/43, Thulukkapalayam,
   Thudupathi Post, Perundurai- 638 057

2. Mr. R. Suresh S/o Rajarathinam
   H-539, Phase-I, Muthuampalayam
   Erode- 638 009

3. Mr.K. Suresh S/o Mr.A. Kandasamy,
   (Branch Manager under Terminated)
   No.139/1, Avallappa Swamy Kovil Street
   Virudhunagar Town - 626 001
   Virudhunagar District

.... Respondents

R.A No 22 of 2023

Tamilnad Mercantile Bank Ltd
Arni Branch,
No.38, Thatchur Road,
Arni - 632 301, Thiruvannamalai District
Rep. by its Manager

.... Appellant

And

1. Mr. V. Dakshinamoorthy
   S/o Veeraiya Perumal
   53, Whuthu kattan street,
   Periamet, Chennai- 600 003

2. Mr. R. Suresh S/o Rajarathinam
   H-539, Phase-I,
   Muthuampalayam, Erode- 638 009

3. Mr. K. Suresh S/o A. Kandasamy,
   No.139/1, Avallappa Swamy Kovil Street
   Virudhunagar Town - 626 001
   Virudhunagar District

.... Respondents

R.A No 23 of 2023

*Between*

Tamilnad Mercantile Bank Ltd
Rep. by its Manager
Arni Branch,
No.38, Thatchur Road, Arni - 632 301
Thiruvannamalai District

.... Appellant

And

1. Mr. S.Suresh Kumar S/o S. Selvadoss
   Old No. 22, New No. 10/22
   Sathyavanimuthu nagar 11st Street
   Thiruvottiyur Chennai- 600 019

2. Mr. R.Suresh S/o Rajarathinam
   H-539, Phase-I, Muthuampalayam
   Erode- 638 009

3. Mr. K. Suresh S/o A. Kandasamy,
   No.l39/1, Avallappa Swamy Kovil Street
   Virudhunagar Town - 626 00l
   Virudhunagar District

... Respondents

*Counsel for Appellant* *: Mr. E. Kumar*

*Counsel for R2 in RA20/2023*
*and for R3 in* R.A:21/2023, R.A: 22/2023
and R.A: 23/2023 *:* Mr. S. L. Rajesh

**COMMON ORDER**

1. These Appeals arose out of the orders passed in Original Applications by Learned Presiding Officer, DRT-II, at Chennai, in OA 848/2018, OA 820/2018, OA 115/2019 and OA 691/2018, respectively.

2. The case of the Appellant in RA 20/2023 in OA 848/2018 in brief is that Defendant No. 2 was a Manager of the Appellant Bank, who facilitated and sanctioned the loan to 1st Defendant (hereinafter called the Borrower) against the Bank's system and procedures and caused loss to the Bank in collusion with 1st Defendant. First Defendant approached the Bank on 29.07.2013 for financial assistance and offered the proposed LIC Policy as security for the loan. The Bank sanctioned overdraft loan amount of Rs.10 Lakhs vide Sanction dated 29.07.2013. First Defendant executed a letter dated 29.07.2013 agreeing to the terms and conditions of the Bank. First Defendant tendered a Cheque on 29.07.2013 drawn on State Bank of India, Erode, towards

insurance premium amount of Rs.16,65,664/-, based on the Branch Manager's assurance to the LIC that the subject Cheque will be realised, LIC, Arni, issued LIC Policy for Rs.20 Lakhs in the name of 1st Defendant. Since the Cheque has been returned unpaid, LIC Policy lapsed immediately. On 29.07.2013 itself, the 1st Defendant transferred Rs.10 Lakhs to the account of M/s. Niagra Rubber Technology Private Limited. First Defendant is the Director of this company. Defendant No.2 (hereinafter called as Manager), without effecting assignment and premium payment, permitted the release of overdraft amount to the 1st Defendant, on 29.07.2013 itself. First Defendant had executed all necessary loan documents on 29.07.2013. Later, during the special investigation by inspecting officers of the Head Office, it came to limelight that Defendants committed fraud therefore, the criminal proceedings had been initiated against the Defendants. In the said background, the OA 848/2018 was filed for recovery of the amount.

2.1 The case in RA 21/2023 in OA 820/2018 is that Defendant No. 3 was a Manager of the Appellant Bank, who facilitated and sanctioned the loan to Defendants 1 and 2, against the Bank's system and procedures and caused loss to the Bank in collusion with Defendants 1 and 2. Defendants 1 and 2, approached the Bank on 29.07.2013 for financial assistance and offered the proposed LIC Policy as security for the loan. The Bank sanctioned overdraft loan amount of Rs.10 Lakhs vide Sanction dated 29.07.2013. First Defendant executed a letter dated 29.07.2013 agreeing to the terms and conditions of the Bank. First Defendant tendered a Cheque on 29.07.2013 drawn on State Bank of India, Erode, towards insurance premium amount of Rs.16,10,532/-, based on the Branch Manager's assurance to the LIC that the Cheque will be realised, LIC, Arni, issued LIC Policy for Rs.20 Lakhs in the name of 1st Defendant. Since the Cheque was dishonoured for "insufficient fund", LIC Policy has been cancelled as the premium has not been paid. On 29.07.2013 itself, the 1st Defendant transferred Rs.10 Lakhs to the account of Mr. R. Suresh, who has also committed similar fraud, in collusion with the said Defendants. Based on the said LIC Policy, without effecting assignment and premium payment to keep the policy live, the Manager, permitted the release of overdraft amount to Defendant No.1, on 29.07.2013 itself. First Defendant had executed all necessary loan documents on 29.07.2013. Later, during the special investigation by inspecting officers of the Head Office, it came to limelight that Defendants committed fraud, therefore, the criminal proceedings had been initiated against the Defendants. In the said background, the OA 820/2018 was filed for recovery of the amount.

2.2 The case of the Appellant in RA 22/2023 in OA 115/2019 in brief is that Defendant No. 3 was a Manager of the Appellant Bank, who facilitated and sanctioned the loan to Defendant 1 and 2, against the Bank's system and procedures and caused loss to the Bank in collusion with Defendants 1 and 2. Defendants 1 and 2 approached the Bank on 03.08.2013 for financial assistance and offered the proposed LIC Policy as security for the loan. The Bank sanctioned overdraft loan amount of Rs.10 Lakhs vide Sanction dated 03.08.2013. First Defendant executed a letter dated 03.08.2013 agreeing to the terms and conditions of the Bank. The Defendant tendered a Cheque on 03.08.2013 drawn on State Bank of India, towards one time insurance premium amount of Rs.16,55,852/-, based on the Manager's assurance to the LIC that the subject Cheque will be realised, LIC, Arni, issued the only status report, in the name of 1st Defendant. Since the Cheque has been returned unpaid, for reason "insufficient balance", LIC Policy lapsed immediately. On 03.08.2013 itself, the 1st Defendant transferred Rs.10 Lakhs to the account of Mr. R. Suresh, who has also committed similar fraud, in collusion with three Defendants. Based on mere status report of LIC Policy, without effecting assignment of policy, the Manager permitted the release of overdraft amount to Defendant No.1, on 03.08.2013 itself. First Defendant had executed all necessary loan documents on 03.08.2013. Later, during the special investigation by inspecting officers of the Head Office, it came to limelight that Defendants committed fraud, therefore, the criminal proceedings had been initiated against the Defendants. In the said background, the OA 115/2019 was filed for recovery of the amount.

2.3 The case of the Appellant in RA 23/2023 in OA 691/2018 in brief is that Defendant No. 3 was a Manager of the Appellant Bank, who facilitated and sanctioned the loan to Defendants 1 and 2, against the Bank's system and procedures and caused loss to the Bank in collusion with Defendant 1 and 2. Defendants 1 and 2 approached the Bank on 03.08.2013 for financial assistance and offered the proposed LIC Policy as security for the loan. The Bank sanctioned overdraft loan amount of Rs.7 Lakhs vide Sanction dated 03.08.2013. First Defendant executed a letter dated 03.08.2013 agreeing to the terms and conditions of the Bank. First Defendant tendered a Cheque on

03.08.2013 drawn on Appellant Bank, towards insurance premium amount of Rs.11,28,990/-, based on the Manager's assurance to the LIC that the subject Cheque will be realised, LIC, Arni, issued status report in the name of 1st Defendant. Since the Cheque has been dishonoured for "insufficient fund", LIC Policy has been cancelled as premium not paid. On 03.08.2013 itself, the 1st Defendant transferred Rs.7 Lakhs to the account of Mr. R. Suresh, who has also committed similar fraud, in collusion with the three Defendants. Based on mere status report of LIC Policy, without effecting assignment of Policy, the Manager permitted the release of overdraft amount to the 1st Defendant, on 03.08.2013 itself. First Defendant had executed all necessary loan documents on 03.08.2013. Later, during the special investigation by inspecting officers of the Head Office, it came to limelight that Defendants committed fraud therefore, the criminal proceedings had been initiated against the Defendants. In the said background, the OA 691/2018 was filed for recovery of the amount.

3. These Original Applications had been disposed as early on 04.04.2019 whereby Learned Presiding Officer allowed the claim against Borrower and dismissed the claim against the Manager. Against that order, the Appellant Bank filed Appeal in RA 14/2020 in OA 848/2018, RA 13/2020 in OA 820/2018, RA 15/2010 in OA 115/2019 and R12/2020 in OA 691/2018 respectively, before this Tribunal. This Tribunal disposed of RA 14/2020, RA 13/2020, RA 15/2010 and R12/2020 on14.09.2022 by setting aside the order of Learned Presiding Officer in so far as Defendant No.2 in RA 14/2020 and Defendant No.3 in RA 13/2020, RA 15/2010 and R12/2020, the Manager, and remitted the matter back to DRT to give opportunity to the Appellant to produce evidence in support of the claim against the Manager. Thereafter, the impugned order was passed reiterating the dismissal of the claim against the Defendant No.2 and Defendant No.3 respectively. Thus, these Appeals.

4. The issue involved in these Appeals is

i) Whether the monetary loss caused to the Bank on account of theft, fraud, misappropriation or any other criminal misconduct, would amount to "debt" as defined under Section 2(g) of the RDB Act, 1993.

ii) Whether the Original Applications which are filed for recovery of loss caused to the Bank can be initiated against a Bank official?

5. Learned Counsel for Appellant Bank submitted that it is not just a case of negligence on the part of the Bank official in causing the monetary loss to the Bank, but the Manager had sanctioned the loan without ensuring whether the insurance policy was issued on payment of premium and whether the insurance policy was in force on the date of disbursement of the loan amount. Borrowers had issued a Cheque towards the insurance premium payment without sufficient funds in the account and that got bounced resulting in cancellation of the insurance policy. Meanwhile,

the Bank Manager, without following the required procedures, released overdraft amount in active collusion with the Borrowers resulting in suffering of huge monetary loss to the Bank. The Borrowers are from various places like Erode, Perundurai and Chennai, far away from Arani, where the Appellant Bank is situated. The overdraft facility was sanctioned after knowing fully well that Cheques for LIC premium were not paid and there was no balance to meet the Cheque amount. Insurance policy must be assigned in favour of Bank and registered with LIC before granting the advance. The date of surrender value certificate was altered from 30.07.2013 to 29.07.2013. No net worth certificate was obtained from Chartered Accountant. The CIBIL report was not verified before sanctioning the credit facilities. Thus, it is evident that the Manager had actively colluded with Borrowers in defrauding the Bank and causing monetary loss. In such a situation, he submitted that the Bank is entitled to recover the loan suffered, as due. In support of his submission he pressed into the service of order of Hon'ble High Court of Karnataka, in **Sri Srinivasa Desai Vs. Canara**

**Bank & Ors.**, reported in *Laws (Kar) 2015 2 249* and the decision of Hon'ble Supreme Court in **United Bank of India Vs. Debts Recovery Tribunal & Ors.,** reported in *AIR 1999 SC 1381*, for the proposition that the entire pleadings has to be read to find out whether the Tribunal has jurisdiction to entertain the claim and that the expression "debt" has to be given the widest amplitude to mean any liability which alleged as due from any person by Bank, during the course of any business activity undertaken by Bank in cash or otherwise, whether secured or unsecured, whether payable under a decree or order of any court or otherwise, and legally recoverable on the date of Application.

6. In reply, Learned Counsel for Respondent submitted that the allegation that Manager colluded with Borrowers and had caused monetary loss to the Bank is absolutely not correct. The Manager in the routine course of his duty, as Manager, sanctioned the overdraft facility by following the necessary procedure. He cannot be held liable on the default committed by Borrowers in paying the loan amount.

However, any loss caused on account of lapse or even fraud, misappropriation, theft, cannot be considered as "debt", and thus Learned Presiding Officer, DRT, rightly dismissed the claim against the Manager. In support of his submission, he produced order of Hon'ble High Court of Karnataka at Bengaluru, in **Sri R. Ranganatha Vs. Indian Bank**, decided in *WP No. 14733/2021 (GM –DRT*).

7. Considered the rival submissions and perused the records.

8. Appellant filed Original Applications against Respondents alleging that Respondent No.2 is a Branch Manager of the Appellant and when the Borrowers approached the Bank for financial assistance on the basis of execution of the loan documents and the proposed LIC Policy as security, overdraft loan was sanctioned. The Cheque was issued towards the one-time premium amount without sufficient funds. Based on the Manager's assurance that

Cheque will be realised, LIC issued Policy in the name of Borrowers. Since the Cheque towards the insurance premium was returned unpaid, the Policy got lapsed immediately. The allegation against the Manager is that without verifying whether the Policy was issued on payment of proper premium and assignment is made, Manager released overdraft amount. The overdraft amount was usurped by Borrowers. Thus, the allegation against the Manager is that, he, in connivance with Borrowers, cheated and defrauded the Bank and caused the monetary loss. However, Learned Presiding Officer, in his finding, recorded that this claim cannot be enforced against the Manager, for the reason that, he is not a debtor, and that, the amount said to have been cheated, cannot be considered as debt in terms of the definition of 'debt' under Section 2(g) of the RDB Act, 1993, and dismissed the claim against the Manager, and thus, this Appeal.

9. Learned Counsel for Appellant submitted that, in **Sri Srinivasa Desai Vs. Canara Bank & Ors.**, reported in *Laws*

*(Kar) 2015 2 249,* the Hon'ble High Court of Karnataka held that fraud committed by the Bank employees by sanctioning Housing Loan in respect of a non-existing property and without even verifying the title deeds and existence of property, and in such circumstances, it was held that, the person need not be a borrower to bring under the definition of 'debt'. The relevant portion is extracted hereunder:

> *"14. In the instant case, we have perused the pleadings of the Bank filed before the DRT. In the application, it is clearly stated by the Bank, the manner in which fraud has been committed by the Bank employees including the writ petitioner and how the papers have been processed to sanction a housing loan in respect of a non-existing property and without even verifying the title deeds and existence of the property. The Bank has also stated that the employees of the Bank by hand in glove with the original borrower/first defendant has played fraud on the Bank. In such circumstances, relying upon the decision of the Hon'ble Supreme Court in Union Bank of India case, we are of the view that the manner in which loan is extended, considering the background of each case we have to hold that such person need not be a direct borrower to bring such persons under the*

*definition of debtor. In the result, we do not see any merits in this petition. Accordingly, the writ petition is dismissed."*

10. The Hon'ble Supreme Court in **Eureka Forbes Limited Vs. Allahabad Bank and Ors.**, reported in *2010 (6) SCC 193*, observed as follows: -

> *"In Eureka Forbes Limited case reported in (2010) 6 SCC 193, Hon'ble Supreme Court of India in paragraph 60, reading from the judgment in re, State Bank of Bikaner & Jaipur Vs. Ballabh Das & Co., reproduced paragraph 7 and 8 to show that " 'debt' should have arisen 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. Liability should have arisen during the course of business activity and the said liability should be legally recoverable."*
>
> *In paragraph 67, quoting from judgment of Hon'ble High Court of Gujarat in re, Bank of India Vs. Vijay Ramniklal Kapadia, it was observed that "Judgment of Hon'ble High Court of Gujarat is entirely on different facts and in the case of an employee of the Bank had*

*misappropriated the amount of the Bank, the Bank instituted an application under the provisions of Recovery Act. Rightly, it was held by Hon'ble High court that it was not a 'debt', within the meaning of Section 2(g) of RDB Act, therefore, could not be tried before the Tribunal".*

*This judgment gives an understanding that amount misappropriated by an employee of the Bank cannot be construed as a 'debt' within the meaning of Section 2(g) of RDB Act.*

*In the judgment in re Bank of India Vs. Vijay Ramniklal Kapadia and others, it is very clearly held that misappropriation of the amount of the bank by its employee and recovery thereof by way of a suit can never be construed as a 'debt'. Relevant portion is extracted hereunder:*

> *"5. On the plain reading of the above definition, it is clear that any liability which is alleged and due from any person by a bank during the course of any business activity undertaken by it in cash or otherwise, whether secured or unsecured, or whether payable under a decree or an order of any civil Court*

*or otherwise, and subsisting on and legally recoverable on the date of the application is "debt". Thus any liability due from any person by a bank during the course of any business activity undertaken by the bank will constitute a "debt". Therefore, a fraud committed by an employee of the Bank cannot or should not be construed a "debt". In the instant case, it is the allegation of the appellant bank in the plaint that respondent No. 1 being an employee of the appellant-Bank has committed fraud with the Bank to the extent of Rs. 13,86,000/- and the suit is filed to recover the said amount. By no stretch of imagination the said misappropriation of the amount of the Bank by its employee can be construed as a "debt", the learned trial Judge, in the instant case, unfortunately has referred to and reproduced only a limited part of the definition of the word "debt" and has committed an error in holding that the debt is a liability which is alleged as due from any person by a Bank. The later part of the definition of the word "debt" is clear which states that it is the liability due from any person during the course of any business activity undertaken by the bank which can be said to be a "debt", meaning thereby that any transaction between a Bank and its customer with respect to the business activity* *undertaken by the Bank, i.e. granting of loan etc. Misappropriation of the amount of the Bank by its employee and recovery thereof by way of suit can never be construed as a "debt". In view of this, the appeal is required to be allowed."*

*This judgment also clearly enunciates the fact that amount misappropriated by an employee of the Bank cannot be construed as a 'debt', within the meaning of the definition of 'debt' under Section 2(g) of RDB Act."*

11. The Hon'ble High Court of Karnataka in *WP No. 14733/2021 (GM –DRT*) in **Sri R. Ranganatha Vs. Indian Bank** case, considering several judgements on the subjects, held that loss caused by an employee during the course of employment, cannot be termed as 'debt' under Section 2(g) of RDB Act, 1993.

12. In the light of the decisions relied on by the Learned Counsel for the Respondent, this Tribunal is of the view that, Appellant cannot proceed against the Respondent No.2/Respondent No.3, the Manager, for the loss sustained

by the Bank on account of fraud or misappropriation alleged to have been committed by the Manager in connivance with Borrowers, especially, when there is no evidence produced supporting conviction of the Respondent No.2, for the fraud or misappropriation alleged to have been committed by him. When there are several decisions on the proposition that the loss caused to be Bank by an employee during the course of employment cannot be termed as "debt" in terms of Section 2(g) of RDB Act, 1992, this Tribunal is of the view that the decision relied on by the Learned Counsel for the Appellant in Sri Srinivasa Desai case is of no use to this case.

13. In this view of the matter, this Tribunal is of the view that there is no reason to interfere with the findings of the Learned Presiding Officer. Thus, order passed in OA 848/2018, OA 820/2018, OA 115/2019 and OA 691/2018, by DRT-II, Chennai, is confirmed.

14. In the result, Appeals in RA 20/2023, RA 21/2023, RA22/2023 and RA 23/2023 are dismissed. Both parties shall bear their own costs. All pending IAs, if any, stand closed.

[Dictated to Athistamani, PS, transcribed by her, corrected and signed by me this 08th of October, 2025]

**[*Justice* G. Chandrasekharan]**
CHAIRPERSON