



A & S LAW WEEKLY

Week - 8

DEBT RECOVERY





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DEBT RECOVERY TRIBUNAL (DRT) & DEBT RECOVERY APPELLATE TRIBUNAL (DRAT)



RDB Act, 1993

- ★ Provides for establishment of Debts Recovery Tribunals (DRT) with original jurisdiction and Debts Recovery Appellate Tribunal (DRATs) with appellate jurisdiction
- ★ The pecuniary jurisdiction of DRT is Rs. 20 Lakh or more
- ★ The Tribunals have not yet commenced taking up Insolvency and Bankruptcy matters

**PROCEDURE FOR FILING BEFORE DEBT RECOVERY
TRIBUNAL (SECTION19)**

Youtube Video Link :

https://youtube.com/shorts/_6n7v9HQfiE?feature=share

MODES OF RECOVERY OF DEBTS THROUGH DRT

Youtube Video Link : <https://youtu.be/xM7ubySsO7s>

APPEALS UNDER THE DRT ACT

Youtube Video Link :

https://youtube.com/shorts/R_NfN8VLMxo?feature=share

"BORROWER" UNDER SARFAESI ACT



*SARFAESI
ACT*

BORROWER

- Borrower means any person who
 - Has been granted financial assistance by any bank or financial institution
 - Has given any guarantee or created any mortgage or pledge as security for the financial assistance granted by banks
- Borrower includes a person who becomes a borrower of a securitisation company or reconstruction company

U/s 2(f)

FINANCIAL ASSET UNDER SARFAESI ACT



SARFAESI ACT

FINANCIAL ASSET

U/S 2(1)

- Financial Asset means debt or receivables.
- It includes claim to any debt or receivables; secured or unsecured.
- It includes any debt or receivables secured by mortgage of immovable property.



NON PERFORMING ASSET UNDER SARFAESI ACT



U/S 2(0)

SARFAESI ACT NON-PERFORMING ASSET

- >An asset becomes NPA when it ceases to generate income for the bank
- >A NPA is a loan or advance for which the principal or interest payment remained overdue for a period of 90 days
- >Banks are required to classify NPA's further into substandard, doubtful and loss assets



ENFORCEMENT OF SECURITY INTEREST UNDER SARFAESI ACT

Enforcement of Security Interest- Section 13 of SARFAESI ACT

Any Security interest created against any secured creditors may be enforced without the intervention of the court or a tribunal

On default by a borrower, a notice containing the liability amount and Secured assets, must be sent to the borrower by the creditor



If the borrower does not discharge his liability with 60 days from the date of the notice, the rights of the creditor shall be exercised



Right to take possession/take over/appoint Managers/require to pay to the secured creditor



In case the liability is not fulfilled by sale proceeds of the secured assets, the creditor can file an application in DRT

RIGHT TO APPEAL UNDER SARFAESI ACT - SECTION 17



Section 14 of SARFAESI ACT

CHIEF METROPOLITAN OR DISTRICT MAGISTRATE TO ASSIST SECURED CREDITOR IN TAKING POSSESSION OF SECURED ASSET

If any secured asset is sold/taken/transferred by the secured creditor for the purpose of possession/control of such asset.

Secured creditors can request in writing to the Chief Metropolitan Magistrate / District Magistrate within whose jurisdiction to assist them.

To take possession thereof, on such request being made to him from the Chief Metropolitan Magistrate / District Magistrate.

- Taking possession of such assets and documents relating to that.
- Forward such assets and documents to the secured creditor on his request.

RIGHT TO APPEAL UNDER SARFAESI ACT - SECTION 17

Youtube Video Link : <https://youtube.com/shorts/NFK1T6B-f88?feature=share>

**APPEALS AND RIGHT TO COMPENSATION UNDER
SARFAESI ACT - SECTION 18 & 19**

