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Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

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Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

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A STUDY ON LEGAL FRAMEWORK FOR LOAN GRANTING AND RECOVERY ON COMMERCIAL BANKS.

AUTHORED BY – 1 SMITA G & 2 SHILPA S

1Student, LL.M, Symbiosis Law School, Nagpur, Symbiosis International University, India.

2Professor, Symbiosis Law School, Nagpur, Symbiosis International University, India.

1gaikwadsmita009@gmail.com, 2shilpasharma@slnagpur.edu.in

ABSTARCT:

Just about every other company has a credit relation with a financial institution, most prominently a bank. Regardless if it is a short-term loan or a long-term loan, all the credit requests necessitate a thorough evaluation of the borrower's ability to pay back the loan when due. Although commercial banks vary by states, the related profit as well as banking intentions are similar. Customers, employees, and, most importantly, shareholders are all interested in their activities. A bank's commercial goal is to maximise profit, though other economic and social operations tend to divert banks' focus away from profit maximisation. The goals and objectives of commercial banks have thus prepared the path for their customers to make and obtain credits in the form of a loan, in which the researcher wants. Lending has become a critical function in the operation due to its direct influence and impact on economic development and corporate development. In a market-oriented economy, the two main participants that drive economic growth are the undetectable funds supplier and the users of a funds for productive purposes. These two participants are spread across the economy and may have no direct relationship with one another. As a result, an intermediary is required to connect them. One of the primary goals of credit analysis is to evaluate the risks of lending to bank customers. This study was carried out to assess commercial banks' loan granting and recovery issues. The study sought to identify the various issues associated with loan recovery, the effects of loan default on commercial banks, and the guidelines that will be implemented to reduce occurrence of loan non repayment.

KEYWORDS: banks, loan, default, economy, lending, recovery.

INTRODUCTION:

The banking industry has existed in India since the dawn of civilisation. Modern banking in India dates back to the mid-eighteenth century. Banking transactions that are genuine are beneficial to the global economy. Money lending is one of the most important functions of banks, and the universal rule is "What is owed, must be repaid." However, over the last two decades, banks have faced difficulties in loan recovery and fluctuating NPA levels, resulting in a decline in commercial sector bank profitability. If bank money is locked up with a few defaulters, it prevents it from being used by thousands of others who could put it to better use. As a result, loan recovery becomes critical for the banking sector. Until the mid-1980s, banks and auditors were in charge of managing NPAs in India. In 1965, the first asset classification system for the Indian Banking System was introduced in response to the need for restructuring to deal with the changing risk profile of banking. The system is known as the "HEALTH CODE" system, and it involves categorising advances into eight categories (Bad and Doubtful Debts). A strong recovery and legal framework, as well as an efficient credit data system, can provide an important role in making sure that banks' asset adequacy remains in good health. As a result, the Indian Government and the Reserve Bank of India have issued a plethora of guidelines, master circulars, provisions, legal and criminal legislations to assist banks in combating the banking sector's devil. The research study examined the provisions issued by the Government of India and the Reserve Bank of India, beginning with the Lok Adalats and ending with the PARA (Public Sector Asset Rehabilitation Agency) quick fix. The statutory status of Lok Adalats under the Legal Services Authority Act, 1987, is the first satisfying step toward reducing bank indebtedness. Debt recovery tribunals and the SARFAESI Act, 2002 were then enacted. On the other end of the spectrum, there is the Corporate Debt Restructuring mechanism, which aims to rehabilitate viable but temporarily distressed corporate advances. Furthermore, Asset Reconstruction Companies help banks improve their credit risk management by selling problem loans and creating a secondary market for such loans. Apart from these proceedings, the Government and RBI have recently taken Strategic Debt Restructuring and Insolvency and Bankruptcy Code 2016. Many developing countries' financial systems are under threat from debt default and debt accumulation. They can also cause failure of the system in specific banking markets as well as the global financial system. As a result, this article investigates the factors that contribute to debt default and debt accumulation, such as lending to incapable borrowers, loaning just above regulatory credit risk exposure cap, a lack of financial reporting clarity, lending without adequate collateral security, overvaluation of security, lending to long-term projects, informational asymmetrical, willfully default by the borrower, fraud by bank officials, and inefficient financial systems. The research work is entirely based on

secondary data, with the primary goal of analysing the available loan recovery provisions to assist banks in increasing their liquidity and profitability.

HYPOTHESIS:

H₀: Banks' measures do not reduce the occurrence of the loan default.

H₁: Banks' efforts to reduce the occurrence of loan default.

RESEARCH METHODOLOGY:

Two methods of research will be adopted in this study

- Doctrinal method:

The main question here is 'what is the law?' on a specific issue. It focuses on locating the law, critically examining it, and developing logical arguments to back it up. As a result, it significantly contributes to the law's continuity, uniformity, and certainty. The core can be found in both the statutory and secondary material.

- Comparative Legal Research:

This entitles us to compare legal concepts and legislation to foreign laws. It emphasizes the cultural and social nature of laws, as well as how they work in various contexts. As a result, it is useful in drafting, revising, and changing legislation. However, it is prudent not to adopt the rule of another social environment as an ideal because it may not work in a different situation.

RESEARCH QUESTIONS:

1. What impact do loan defaults have on commercial banks?
2. What are the various problems faced during the loan recovery?
3. What are the steps that will aid to minimise the occurrence of loan default?

REVIEW OF LITERATURE:

Many Scholars, Researchers, Banks/Groups of Banks, and Organizations, among others, have studied and analysed in a limited sense the issue of provisions or strategies available for Loan Recovery or Control of Non-Performing Assets in the context of the Banking Sector. A number

of advisory boards appointed by the India Government the Reserve Bank of India have also investigated the NPA recovery issues in the Indian banking sector.

The following are systematic reviews of such available literature:

According to Vivek Rajbahadur Singh (2016) "A Study On the Non-Performing Assets Of the Commercial Banks And Their Recovery In India," credit appraisal and post loan monitoring are critical steps that all public sector banks must emphasis on. Managers in the credit monitoring and recovery department should be able to work quickly. Many executives claim that "we do not fear negotiating, but we do not negotiate out of fear." Fear leads to arbitrary bargaining, which fails. Furthermore, if the delinquencies are caused by factors beyond the debtor's control, such as draughts, floods, or other catastrophic events, the banker must restructure the loans appropriately, taking into consideration the genuine difficulty faced by the borrowers.

In their study "The Impact Of SARFAESI ACT 2002 In Recovering The Non-Performing Assets In Public Sector Banks: A Study On Recovery In SBI, CBI, CB, BOB, AND PNB 2008 TO 2014," Mrs. Chandra Shaarda AND Dr. Ajay Jain (2016) compare the number of cases of NPAs referred with Lok Adalat, Debt Recovery The research paper also shows the results of ANOVA analysis (ANOVA is an acronym for Analysis of the Variance, which is a set of statistical developed by statistician and evolutionary biologist Ronald Fisher to analyse differences between group means and their related processes) and whether there is a statistically remarkable difference between both the cases referred to DRT, Lok Adalat and SARFAESI Act 2002.

According to the findings of the study, latest recovery proceedings against Kingfisher Airlines, Mr. Vijay Mallya, towards recovery of total outstanding Rs. 10,000 crores NPA, DRT restrained from getting Rs. 515 crores that he acquired from the selling of the spirits business to Diageo Plc says that the government is very eager to recover the NPAs by utilizing existing recovery channels such as DRT and SARFAESI Act 2002.

According to Ayub Ahamed KS and Vishwanath Panwar (2016) in their Research Paper "A Comparative Study Of NPA In Private Sector Banks And Public Sector Banks In India," market diversion decisions cannot be made in real time due to inadequate technology and management information systems. Some banks do not have a proper financial accounting system in place, which renders to the poor credit collection and, as a result, NPA. To address this issue, all banks should be computerised. Bankers must take corrective precautions to stop default, such as data

processing at regular intervals to predict defaulters and take necessary action on predicted defaulters beforehand.

Rachita Ota And Purnima Sarkar (2016) Studied how financial inclusion is important in rural economies in their study "Priority Sector Lending Of Commercial Banks And Its Impact On The Development Of The Rural Economic Status Of India." It stated that this is due to commercial banks' exposure to interest rate risk, credit risk, and market risk, they consider several credit appraisal criteria before loan disbursement because there is always a risk of loan assets becoming nonperforming assets. It was concluded, however, that the priority sector lending mechanism is to be a great support of growth and development, particularly in agricultural, micro and small enterprises, and even exports, but the cost is quite high. If NPA levels in this bracket continue to rise, such high costs result in severe economic losses for banks. As a result, many economic experts advocated for banks to be given discretionary authority over loan approval in order to minimize NPAs.

In research paper "A Comparative Study Of NPA In India In The Global Context – Similarities And Dissimilarities And Remedial Measures," Prashanth K. Reddy (2002) found that the economic sector restructuring in India has continued to move quickly in areas such as interest rate deregulation, reserve requirement reductions, entry barriers, prudential norms, and uncertain guidance. According to the study, in order to stay successful, changes to address the NPA problem must span the entire spectrum of the judiciary, politics, and bureaucracy. The paper investigates the impact of changes on the level of NPAs and suggests solutions to problems. It was recommended that the Economic Value of Equity and the Economic Value of Equity at Risk are useful mechanisms for dealing with the negative impact on ROE, asset growth, and NPA Ratios

INDIAN BANKING SYSTEM:

- Historical Background:

Previously, when there was no common medium of exchange, a system known as the "Barter System" existed. A barter system is a type of trade in which one good or service is exchanged for another good or service. In Adam Smith's (Father of Modern Economics) "The Wealth of Nations," barter is described as "higgling, haggling, swapping, dickering." As the scope of transactions and trade expanded, there was a need to develop a common medium of exchange and a common measure of value, namely "money." Money, according to Keynes, is that by which

debts and contracts are discharged and a store of general purchasing power is held. Although "money loaned," also known as credit, existed in the barter system, its importance grew with the development of money. As a result, the need for "Bank" arises. Bank is a legal entity that accepts deposits that can be withdrawn on demand. It also makes loans to individuals and businesses. The word Bank is derived from the Greek word "Banque", which means "bench." Banking, in its most basic form, is as old as authentic history. In the ancient world, the first merchant banks made grain loans to farmers and traders who transported goods between cities. This began in Assyria and Babylonia around 2000 BC. Later, in the ancient Greece and the Roman Empire, temple-based lenders made loans while also introducing two significant innovations: the deposits were accepted and changed money. Archaeology from this time period in ancient China and India reveals evidence of money lending activity as well. The Bank Of Venice, established in 1157 in Italy, was the first public banking institution. The oldest bank which is still in operation is Banca Monte Dei Paschi Di Siena, headquarter being situated Siena, Italy, and has been in operation since 1472.

- History Of Banking In India:

The first Indian bank was the Bank Of Hindustan, which was founded in 1770 (Alexander & Co.) and was headquartered in Kolkata. Allahabad Bank, founded in 1865 and headquartered in Kolkata, was the oldest commercial bank. Oudh Commercial Bank, founded in 1881 and headquartered in Faizabad, Uttar Pradesh, was the first bank of limited liability managed by Indians. Punjab National Bank, founded in 1894 in Lahore, is now headquartered in New Delhi. PNB was India's solely owned bank. Bank of Calcutta (renamed as Bank of Bengal in 1809), Bank of Madras (1843) and Bank of Bombay (1840), were all renamed Imperial Bank in 1921. In 1955, Imperial Bank was renamed State Bank Of India . SBI had eight associate banks in 1959, including the SB of Bikaner, the SB of Jaipur, the SB of Travancore, the SB of Hyderabad, the SB of Mysore, the SB of Patiala, the SB of Saurashtra, and the SB of Indore. SB of Bikaner and Jaipur merged with SBI in 1963, SB of Saurashtra which merged with SBI in the year 2008, and SB of Indore which merged with SBI in the year 2010. The State Bank group grew to become India's largest bank, serving 90 million customers through a network of over 9000 branches spread across the country. To regulate the operations of these banks, in 1935 the Reserve Bank was founded in accordance with the provisions of the Reserve Bank of India Act, 1934. It was founded in Calcutta which was permanently relocated to a place Mumbai in 1937. Similarly, RBI established the Banking Regulation Act of 1949, which established a legal framework for the regulation of the banking system.

- Nationalisation Of Banks:

As previously stated, the modern banking history of India can be followed back to the nineteenth century. While that time, the primary goal of most banks were to meet the economical needs of local industry and business. However, the banking services became exclusive domain of large corporations and wealthy individual. The general public was not granted easy banking and credit services. Rural small-scale industries and agriculture lacked access to the banking and credit services. To fund their activities, they relied on village money lenders and other private financiers. These local financial exploiters preyed on the rural population by charging exorbitant interest rates and difficult repayment terms. By that time, India's banks had been nationalised. Indira Gandhi, India's Prime Minister, wrote a new chapter in the history of Indian banking. As part of their social responsibility, India's nationalised banks were compelled to focus on rural and agricultural sectors. As previously stated, the first phase of nationalisation concerned the State Bank of India. The second stage of nationalisation began in the year 1969, with the nationalisation of 14 of the major banks, each with a minimum deposit of Rs. 50 crore. Six more banks were nationalised in 1980, with a minimum deposit of Rs. 200 crores.

- Definition Of Bank:

According to Section 5(b) of the Banking Regulation Act of 1949, "banking" means accepting deposits of money from the public for the purpose of lending or investment, repayable on demand or otherwise, and withdrawal by cheque, draught, order, or otherwise; in other words, a bank can be said as financial institution that accepts deposit from the public and creates credit¹. Lending can be done directly or indirectly through capital markets. Because of their importance to a country's financial stability, banks are heavily regulated in most countries. Banks are regarded as development leaders in a modern economy, as well as Dealers in money.

LOAN SYSTEM IN INDIA:

A loan can be said to be the giving of money from a person, organisation, or entity to some another person, organisation, or entity in finance. A loan can be called as a debt given by one entity (organisation or individual) to another entity at an interest rate, and it is attached by a promissory note that classifies, among other things, the principal amount of money being borrowed, the interest rate charged by the lender, and the date of repayment.

¹ Banking Regulation Act, 1949.

- Definition Of Loan:

Secured Loans and Advances are defined in Section 5(n) of the Banking Regulation Act 1949 as "a loan or advance made on the security of assets the market value of which is not at any time less than the amount of such loan or advance" and Unsecured Loans and Advances are defined as "a loan or advance not so secured."²

The term "loans" is not defined anywhere in the Companies Act of 2013. However, in common parlance, a loan is any transaction in which money is given with the intention of being returned, with or without interest. According to the RBI Act of 1934, a "loan company" is any company that is a financial institution that provides finance as its primary business, whether through loans, advances, or otherwise, for any activity other than its own, but excludes an equipment leasing company or a hire-purchase finance company.³

- Nature Of Loans Granted By The Banks:

Bank loans can be classified in many ways based on the type of person to whom the loan is granted. Thus, loans can be classified based on their intended use, namely:

1. Personal loans
2. Agricultural loans
3. Bridging loans
4. Industrial loans
5. Probate loans

Loans can also be classified based on their maturity date. As a result, we have loans for the short, medium, and long term. The term of the short-term loan is one year. The term of a medium-term loan is only two to three years. Long-term loans typically have a five-year term.

- Problems Of Loan Default:

When loans are unable to be repaid, they are classified as problem credits. Problem loans and losses essentially reflect the risk that a borrower's ability and wilfulness to pay back all obligations entails. By definition, the lending process is flawed. Credit analysis could be not be complete or derived from incorrect data. Loan officers with strong personal ties to the bank may ignore the true condition of borrowing, and a debtor's ability to repay may simply change after the loan is

² Banking Regulation Act, 1949.

³ Reserve Bank Of India Act, 1934.

approved. If management is only concerned with minimising losses, a bank will make no loans, profit will be reduced, and genuine credit needs of customers will not be met. Lenders cannot remove all risks, so more loan losses are to be expected.

The goal is to handle losses effectively so that the bank can manage its risk and return targets. Loan defaults occur as a result of debts owed to creditors, but full or partial recovery is thought to be impossible due to some inherent weakness. Loan default (bad debt) are aspects of accounts receivable or credit granted to the bank's customers that cannot be recovered within the given specified period for some reason or another.

- Causes Of Loan Default:

Loan defaults are caused by a many of factors, some of which are under our control and others which are not. Controllable factors include those indicating overall bank credit policy, as well as inadequate credit assessment, loan structuring, and loan documentation. Uncontrollable factors are typically characterized by tough economic conditions, negative regulatory reforms, ecological factors in the borrower's processes, and natural catastrophes. While there is little that can be done to avoid uncontrollable variables other sources of loss can be significantly reduced by an effective credit granting procedure.

The following factors influence loan defaults:

1. Factors related to banks
2. Customer-related aspects
3. Uncontrollable variables

- Effect Of Loan Default:

The lending of money deposits with banks to those in need implied a risk that the lending credit would not materialise as planned. Depositors may make lending institution demands. If this takes place, the lending financial institution will be unable to meet the goals that have been set for them. The overall result would be a loss of trust in the banking system. Other negative consequences of loan repayment default include:

1. Bank losses: The unrecovered loans represent a significant loss for the banks. When debts are not repaid, banks are forced to write them off, which can have serious consequences for the bank's operations.

2. Revenue decline: The bank's main source of revenue suffers as a result of the interest loss. Banks' primary activity is to make the provision of loans and credit to customers. They charge interest on loans, which is a significant source of revenue for them. If there is failure to pay interest on loans then it means that banks will lose a significant amount of money.

3. Distress: When bad debts accumulate to such an extent that the bank is unable to write them off, the bank may become illiquid. If the situation does not improve after this point, the affected banks may become distressed and eventually go out of business.

4. Increased overhead: If the debtors fail to pay, the bank may resort to legal action to recover a portion or the entire debt. In most cases, the legal fees involved are exorbitant. Regrettably, after spending so much money on litigation, they may lose the case.

5. Limited Credit Creation Capacity: As bad debt increases, the bank's capital decreases and the money available for lending decreases, limiting the bank's ability to create credit.

- Non-Performing Assets:

Any amount becomes due on the specified payment date. If it is not paid by the due date, it becomes overdue. Similarly, in customer-banker relationships, any amount owed to the bank under any credit facility that is not paid by the due date set by the bank becomes past due. As a result, in accordance with international practises and the recommendations of the Financial System Committee, the Reserve Bank of India has introduced Prudential Norms On Income Recognition, Asset Classification And Provisioning.

- Identification Of NPA:

1. In the case of a term loan, the interest and/or principal instalments remain overdue for more than 90 days; in the case of an Overdraft/Cash Credit (OD/CC), the account remains "out of order" for more than 90 days.
2. In the case of bills purchased and discounted, the bill is overdue for more than 90 days.
3. Interest and/or principal payments are overdue for two crop seasons for short duration crops and one crop season for long duration crops.
4. The liquidity facility amount has been outstanding for more than 90 days in relation to a securitization transaction completed in accordance with securitization guidelines dated February 1, 2006.
5. In the case of derivative transactions, overdue receivables representing a positive mark-to-market value of a derivative contract if they remain unpaid for 90 days after the specified due date of payment.

- Credit Policy:

Before beginning a proper analytical study of various provisions regarding loan recovery in the Indian Banking Sector, it is necessary to understand credit policy and its importance. Lending is an essential component of banking, and a banker earns the majority of his income through lending. A bank will be able to earn spreads to sustain profitability by lending the funds mobilised. This will be achieved if the bank is able to accept and manage credit risk arising from the borrower's quality, as well as liquidity risk arising from borrowing short and lending long in order to achieve higher spreads. A bank's lending decisions are guided by its Loan Policy or Credit Policy. Credit is a never-ending process. The repayment of one credit results in the creation of another credit. As a result, it presupposes proper borrower selection, which necessitates a thorough and comprehensive investigation of all facts. To make a decision on which borrower to select, the banker must first gather a long chain of information about the borrower. Typical loan application forms filled out by the applicant provide the banker with nearly all of the necessary details pertaining to the advance. The banker is responsible for verifying and correlating those statements, as well as preparing credit reports. Credit investigation is thus a sacred and obligatory job of a lending banker in order to successfully manage his lending operations.

- Need For Credit Policy:

The credit policy document is a document that identifies the dos and don'ts when sanctioning loan proposals. Loan proposals differ greatly from one another. A strict methodology for accepting or rejecting proposals cannot exist. The top management establishes exposure limits for individuals/companies/industries, borrower credit quality, lending rate, and risk level, among other things, and allows lower level functionaries to make decentralised decisions. Before granting a loan, a bank should perform due diligence by determining the purpose of the loan, identifying the primary and secondary sources of repayment, assessing the business and industry risks that could impede repayment, and analysing the applicant's financial statements.⁴

LEGAL PROVISIONS FOR LOAN RECOVERY:

There are some legal provisions for loan recovery, which are as follows:

- LOK ADALAT:

⁴ Special reference of "Indian Financial System" by Dr. V. K. Jain and Dr. Parizad P. Dungore

LOK ADALAT is an alternative dispute resolution mechanism; it is a forum where disputes/cases pending in a court of law or in the pre-litigation stage are amicably settled or compromised. The Legal Services Authority Act, 1987, established it as a statutory body. On March 14, 1982, the first Lok Adalat was held in Junagarh, Gujarat. The award made by the Lok Adalats is considered to be a civil court decree and is final and binding on all parties under this act, and no appeal against such an order lies before any court of law. When a case is filed in Lok Adalats, there are no court fees.

There are four levels of Lok Adalats

- (a) at the State Authority level
- (b) at High Court level
- (c) at District level
- (d) at Taluka level.

The Indian Banks Association (IBA) has issued guidelines to member institutions on how to take up cases for settlement through Lok Adalats. There are some benefits to banks and financial institutions using this forum to reach a compromise settlement of their NPAs. Lok Adalats can hear cases involving amounts up to Rs. 5 lakh. It may be increased up to Rs. 20 lakh, which has been discussed with the appropriate authorities. It shall have the authority to (a) summon and compel the attendance of any witness and to examine him under oath; (b) discover and produce documents; and (c) receive evidence. on affidavits; (d) request for a public record or a copy of a public record.

This mechanism is mainly useful for speedy justice and recovery of small loans

- Debt Recovery Tribunals (DRT):

The Debt Recovery Tribunals (DRTs) And debt Recovery Appellate Tribunals (DRATs) both were established under The Recovery Of Debts Due To Banks And Financial Institutions Act (RDDBFI Act), 1993 (Act 51 of 1993) with the specific goal of providing expeditious adjudication and recovery of debts due to banks and financial institutions. In India, there are currently 39 DRTs and 5 DRATs in operation. If the lender bank's dues from the borrower exceed Rs. 10 Lakhs, the lender bank can recover them through DRT. There is no monetary limit for filing an interim order application with DRT. It was discovered that DRTs could not produce the desired results in less than a decade, so the SARFAESI Act 2002 was enacted. Following the enactment

of the SARFAESI Act, any aggrieved person can now approach the DRT, whereas previously only banks were eligible. Appeals against DRT orders are heard by DRAT.

- Corporate Debt Recovery Council/Restructuring:

The need to develop an proper mechanism for corporate debt restructuring in the country, along the lines of similar mechanisms in countries such as the United Kingdom, Thailand, Korea, Malaysia, and others, was capturing the government's attention of India, the Reserve Bank of India, and banking institutions. As a result, the CDR scheme has been completed. The RBI issued detailed guidelines on AUGUST 23, 2001⁵. The goal was to ensure a timely manner mechanism for lending restructuring for viable entities facing problems outside the purview of BIFR (Bureau of Industrial Finance & Restructuring), DRT, and other legal proceedings such as SICA (Sick Industrial Companies Act). The CDR mechanism is a non-statutory, voluntary system based on Debtor-Creditor Agreements (DCAs) and Inter-Creditor Agreements (ICAs) (ICA). It only applies to numerous banking accounts, syndicate/consortium accounts, where all financial institutions and organisations have an outstanding aggregate exposure of Rs. 100 million or more, whereas RBI guidelines required a minimum outstanding exposure of Rs. 20 crores.

- SARFAESI ACT, 2002:

As previously stated, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 contains some loopholes that have been exploited by both debtors and lawyers. The legal framework governing commercial transactions had not evolved in tandem with changing business practises and financial sector reforms. This had contributed in a slow rate of loan recovery and rising levels of NPAs.

As a result, THE NARSIMHAM COMMITTEE I AND II, AS WELL AS THE ANDHYARUJINA COMMITTEE, were formed to investigate banking sector reforms. This committee suggested that a new legislation be enacted to allow the formation of securitization and reconstruction companies, as well as to allow banks and FIs to seize NPAs without the intervention of a court.⁶

⁵ <https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=440&Mode=0>

⁶ <https://www.drt.gov.in/pdf/Act-s/SARFAESI%20Act.pdf>

As per section 13 of the Act,

If a borrower fails to pay back the loan or an instalment and his account is classified as a non-performing asset (NPA) by a secured creditor, the secured creditor may issue a written notice to the borrower requiring full repayment of dues within 60 days before a period of limitation expires. In the event of a default in repayment in less than 60 days, the secured creditor may take possession (including sale, lease, or assignment) of the secured asset or take over management of the borrower's business or appoint a manager for the secured asset, or even without taking any of these actions, may continue against the guarantor or sell the pledged asset, if any.

- **ASSET RECONSTRUCTURE COMPANY:**

As per sec 2(1) The Enforcement Of Security Interest And Recovery Of Debts Laws And Miscellaneous Provisions (Amendment) Act, 2016, an Asset Reconstruction Company is a corporate body with the Reserve Bank under Section 3 for the intent of carrying on business of asset reconstruction, securitization, or both; a company is one that is registered under Section 2 Clause 20 of the Companies Act, 2013.⁷

CONCLUSION:

The primary function of any bank is to lend money in exchange for deposits, thereby facilitating a better flow of cash and credit in the market. And the bank that lends must recover the same for payment or repayment within a certain time frame. The best indicator of the health of the Indian banking industry is not only the level of non-performing assets (NPAs), but also the rate of recovery. NPAs have a significant impact on bank profitability and, as a result, overall operations and performance. The Indian banking sector was facing massive NPA problems, banks' eagerness to increase lending resulted in asset quality compromise, and banks were losing money due to provisions. As a result of the large amount of money locked up in NPAs, i.e. interest and principle, which is the primary source of income for the bank. After the liberalisation, privatisation, and globalisation of the Indian banking system in 1991, we can still say that there were revolutionary changes. Following 1991, there appears to have been a sudden increase in the legal civil proceedings to recover the risky debts. It aids in obtaining consistent solutions for loan recovery well before the specific asset becomes NPA. The inclusion of DRT in the statutory provisions of recovery procedures was the first great leap toward the reinforcing of the banking system. DRT recovered 81.1 percent of the amount involved in NPA in 2008-2009. This is the primary reason

⁷ <http://financialservices.gov.in/Banking/LAWS.pdf>

why commercial banks approach DRT rather than Lok Adalats, which are primarily used for small loan amounts. The SARFAESI Act, 2002, on the other hand, has been a model reform in the Indian banking sector. The statistical information analysis of the study shows that, while there is a decline in loan recovery trends in 2015-2016, the SARFAESI Act proves to be a significant and effective mechanism for the recovery of NPAs. After going through all of these channels, we can conclude that there are effective loan recovery provisions in the Indian economy. And these provisions are constantly attempting to assist banks in improving the flow of operations. According to the above study, even after all of the legal proceedings such as DRT, SARFAESI, SDR, CDR, and so on, the government and RBI appear to be constantly throwing a variety of time-tested ideas at bank bad loans (recently PARA) in the last three years. It initially permitted banks to restructure loans. When that failed, asset quality reviews were conducted in order to force banks to clean up their balance sheets. After the bank's management was given the authority to take over defaulting firms and evict promoters. As a result, even though the provisions are more or less effective, there are some gaps that must be addressed and closed.

SUGGESTIONS:

The researches believe that banks should speed up and strengthen their internal control systems in order to reduce the burden of bankruptcy. Compliance with Accounting Standards and Auditing Standards, data analysis at regular intervals for defaulter prediction, and so on will aid in the timely recognition of errors, allowing management to take appropriate actions against bad loans by making appropriate decisions. Banks should strictly adhere to credit policy in order to protect lenders' interests during legal proceedings. It is necessary for bankers to monitor the movement of borrowers' stocks and assets in order to train bankers to recover loans in a systematic manner before they become NPAs. Banks should also consider supporting the efforts of the government and the RBI through mechanisms such as ARC resolution, SDR conversion of loans, CIBIL data analysis records, and so on. There must be a single, consolidated framework for loan recovery in the Indian banking sector, which had 9.1 percent NPAs on all bank loans in 2017. Many advanced technologies, such as MIS, are available to assist banks in automating the loan origination process. This system assists in performing all necessary business functions, such as account information, new loan setup, credit, and recovery. Banks must use these techniques to increase their financial position and liquidity.