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HDFC Bank Ltd. v. Rajsri Associates (HUF): DRAT Chennai on Attachment Before Judgment and Post-Order Conduct

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The interplay between interim protective measures and the substantive rights of defendants in debt recovery proceedings has long been a contentious area of banking jurisprudence. The Debt Recovery Appellate Tribunal (DRAT), Chennai, in HDFC Bank Ltd. v. Rajsri Associates (HUF) and Ors., MA No. 1 of 2026, decided on 1st April 2026, delivered a significant ruling on the scope and applicability of attachment before judgment under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. The judgment, addresses the crucial question of whether fresh evidence demonstrating a defendant's intent to alienate secured assets can justify the reversal of a DRT order that had earlier dismissed an application for attachment on the ground of insufficient proof of mala fide intention.

The appellant before the DRAT, HDFC Bank Ltd., had instituted Original Application (OA) No. 488 of 2024 before the Debt Recovery Tribunal-II (DRT-II), Chennai, seeking recovery of outstanding dues from the respondents, namely Rajsri Associates (HUF) and others. Apprehending that the respondents might dispose of their immovable assets to frustrate the recovery proceedings, the bank filed Interim Application (IA) No. 1626 of 2024 praying for attachment before judgment of several scheduled properties. The properties in question included land measuring eight grounds forming part of Lallakku Maniam land in R.S. No. 3347/1, and an independent bungalow bearing Door No. 50/29 on Madhavan Nair Road, Mahalingapuram, Chennai, together with the underlying land admeasuring 3,619 square feet in Nungambakkam Village.

By order dated 24th September 2025, the learned Presiding Officer of DRT-II dismissed IA No. 1626 of 2024. The dismissal was premised on two primary considerations. First, the DRT held that the appellant-bank had failed to produce any strong evidence reflecting the mala fide intention of the respondents to alienate the scheduled properties. Second, the DRT took note of the respondents' undertaking that they would not sell or otherwise deal with the properties in a manner prejudicial to the bank's interest, coupled with the fact that the original title deeds remained in the custody of the bank. Notwithstanding the dismissal, the DRT directed the respondents to file a formal undertaking affidavit affirming that they would not alienate, sell, mortgage, or create any encumbrance over the scheduled properties until the final disposal of the OA.

The events following the DRT order set the stage for the appellate challenge. The appellant contended that the respondents had complied with the undertaking direction only in respect of part of the scheduled properties, leaving substantial assets unprotected. More significantly, the bank discovered and produced before the DRAT email communications exchanged between the first respondent, M.A. Srinivasan, and a prospective buyer, Mr. Shankar, which revealed active negotiations for the sale of certain scheduled properties. Critically, these communications occurred after the impugned DRT order dated 24th September 2025. One such email indicated that the prospective buyer was prepared to complete registration upon receiving loan closure formalities from the bank. Additionally, another email dated 24th February 2026 concerning the sale of the third defendant's property was brought to the Tribunal's attention during the appellate hearing.

The rival contentions before the DRAT were sharply contested. The learned counsel for the appellant, submitted that the fresh email communications conclusively established an attempt to sell the properties in violation of the DRT's directions and that attachment before judgment was therefore imperative to safeguard the bank's security interest. Conversely, the learned counsel for the first and second respondents, Mr. S. Anand and Ms. S.P. Arthi, refuted the allegation of non-compliance and maintained that the undertaking affidavit had been filed in respect of all scheduled properties. They argued that the negotiations with the prospective buyer had commenced prior to the DRT undertaking and were transparently pursued with the objective of effecting a one-time settlement (OTS) of the loan. They emphasised that the email dated 24th February 2026 was addressed to the proposed buyer with a copy marked to the appellant-bank, thereby negating any suggestion of a clandestine or fraudulent transfer. The third respondent, through his counsel Mr. S.P. Nagaraj, further contended that he had furnished a specific undertaking in respect of Item No. 2 of the schedule, agreeing not to sell, mortgage, charge, encumber, or transfer the property without the express written consent of the bank.

The DRAT, presided over by Mr. Justice G. Chandrasekharan, undertook a careful examination of the materials on record. The Tribunal observed that the email communications, which had not been placed before the DRT at the time of the original order, constituted fresh material of significant probative value. These communications demonstrated that attempts to sell the properties had been made both prior to and subsequent to the undertaking given before the DRT. The DRAT noted that the DRT's dismissal of IA No. 1626 of 2024 was substantially influenced by the absence of strong evidence of mala fide intention and by the respondents' undertakings. However, the emergence of the email correspondence materially altered the factual matrix, revealing conduct inconsistent with the respondents' assurances.

In its analysis, the DRAT implicitly applied the well-settled principles governing attachment before judgment, drawing upon the foundational jurisprudence under Order 38, Rule 5 of the Code of Civil Procedure, 1908, which is applied to DRT proceedings by virtue of Section 22 of the RDDB Act, 1993. The DRAT recognised that while attachment before judgment is a drastic remedy, the subsequent conduct of a defendant in actively negotiating the sale of secured assets despite judicial directions to the contrary constitutes compelling evidence of the need for interim protection.

The DRAT also directed the Registry to verify with the Registrar of DRT-II whether the undertaking affidavits had been filed as directed, and called for a report in that regard. The Tribunal acknowledged the distinction drawn by the third respondent between a simple undertaking and one requiring the bank's express written consent, though it ultimately treated the matter holistically in the context of the fresh evidence.

In its final order, the DRAT allowed the appeal, set aside the order of DRT-II dated 24th September 2025, and remitted IA No. 1626 of 2024 to the learned Presiding Officer, DRT-II, Chennai, for fresh consideration on merits and in accordance with law. The Tribunal expressly directed that the DRT should not be influenced by any observations made in the appellate order, thereby ensuring a de novo and unbiased adjudication. Pending the disposal of the IA, both parties were directed to adhere strictly to the undertaking not to sell, mortgage, charge, or encumber the scheduled properties. The parties were left to bear their own costs, and any pending interim applications were ordered to stand closed.

The judgment in HDFC Bank Ltd. v. Rajsri Associates (HUF) is a salutary reminder of the dynamic nature of interim relief in debt recovery proceedings. It highlights that appellate forums retain the jurisdiction and indeed, the duty to consider fresh materials that fundamentally affect the equities between the parties, particularly where the conduct of a defendant subsequent to an adverse order reveals an intention to dissipate assets. The decision reinforces the delicate balance that tribunals must strike between respecting the procedural autonomy of first-instance courts and ensuring that secured creditors are not left without effective remedy by reason of subsequent and previously undisclosed conduct.

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