

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No.2429/2023
Along-with connected matters

M/S HOTEL ALPINE RIDGE AND ORS. ...Appellant(s)/Petitioner(s)

Through: Mr. Arif Sikander, Advocate with Ms. Laraib Anjaleena,
Advocate in WP (C) No.2429/2023

Mr. Altaf Haqani, Sr. Advocate with Mr. Shakir Haqani and
Mr. Asif Wani, Advocates in WP (C) No.168/2022.

Mr. Danish Majid Dar, Advocate, with Mr. Bhat Shafi,
Advocate, Ms. Bushra Zargar, Advocate, Ms. Ahra Syed,
Advocate in WP (C) No.2232/2023 & WP (C) No.2468/2023.

Mr. Syed Faisal Qadri, Sr. Advocate with Mr. Huzaif Ashraf,
Advocate in WP (C) No.2367/2023.

Mr. Mohammad Yawar Hussain, Advocate in WP (C)
No.2956/2023.

Mr. N.A. Kouchai, Advocate in WP (C) No.2816/2023

Mr. F.A. Wani, Advocate in CM (M) No.215/2023

Mr. Nissar Ahmad, Advocate in WP (C) No.2817/2023

Mr. Tariq M. Shah, Advocate in WP (C) No.2776/2023

Mr. Danish Majid, Advocate in WP (C) No.2232/2023

Mr. Shuja Ul Haq, Advocate in WP (C) No.2250/2023

Mr. Ahra Syed, Advocate in WP (C) No.2325/2023

Ms. Sabeena Naveed, Advocate in WP (C) No.2353/2023

Mr. Tawheed Ahmad, Advocate in WP (C) No.2725/2023

Mr. Gulzar Ahmad Bhat, Advocate in WP (C) No.1514/2023

Mr. Mohammad Younis, Advocate for (Punjab National
Bank)

Vs.

UNION OF INDIA AND ORS. (FINANCE) ...Respondent(s)

Through: Mr. T.M. Shamsi, DSGI with Ms. Rehana Qayoom, Advocate
M/s. Syed Arsalan Abid, Abubakr Pandit, Prateek Kaitan,

Advocates in WP (C) Nos.168/2022, 2816/2023, 1982/2021, 2014/2023, 2468/2023, 2633/2023, 2817/2023 and WP (C) No.1564/2023 and WP (C) No.2232/2023

Mr. Shafqat Nazir, Advocate in WP (C) Nos.2014/2023, 2633/2023 and 1564/2023.

Mr. Adil Asimi, Advocate in WP (C) No.2776/2023

Mr. N.A. Dendroo, Advocate in WP (C) No.2782/2023

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE M.A. CHOWDHARY, JUDGE

ORDER
22-11-2023

01. Let all these matters viz. WP(C) No.2776/2023, WP (C) No.2816/2023, , WP (C) No.1982/2021, WP(C) No.168/2022, WP(C) No.2325/2023, WP(C) No.2353/2023, WP(C) No.2367/2023, WP (C) No.1204/2023, WP (C) No.1514/2023, WP (C) No.2014/2023, WP (C) No.2468/2023, WP (C) No.2481/2023, WP (C) No.2633/2023, WP (C) No.2782/2023, and WP (C) No.2817/2023 be clubbed with this petition in view of common issue involved as to whether Debts Recovery Tribunal, Chandigarh, offers an alternative efficacious remedy as mentioned in the statute.
02. Heard learned counsel for the parties.
03. On 06.09.2023, this Court passed an order in WP (C) No.2232/2023 which will also cover other writ petitions having similar issue involved pending before this Court. Pursuant thereto, Mr. T.M. Shamsi, learned DSGI as per the direction issued by this Court has placed a communication dated 18.09.2023 received from the Department of Financial Services, Ministry of Finance, Government of India, to the effect that matter relating to facility of virtual mode is being looked into by the Department. Accordingly, he had requested

four weeks' more time for filing the reply. However, so far as no reply has been filed.

04. Mr. T.M. Shamsi, learned DSGI, however, submits that in compliance of the directions issued by the Hon'ble Supreme Court for making facilities of virtual Courts available before all the Tribunals, necessary steps have been taken up which will allow the present petitioners and any person aggrieved under the SARFAESI Act to appear before the Tribunal at Chandigarh DRT virtually, and because of this provision for online proceeding, persons are appearing before DRT Chandigarh. As far as establishment of a DRT Bench in J&K is concerned, the matter is being looked into and seeks further time to take instructions.
05. On the contrary, it has been submitted on behalf of all the petitioners that there is no provision for appearing online and no such facilities have been extended to the litigants in Jammu and Kashmir and as such, the efficacious remedy available to Union Territory of J&K is illusory not efficacious.
06. In that view of the matter, we would require the petitioners to also file their affidavits about the aforesaid lack of facilities for virtual proceedings as this would have relevance for our consideration.
07. Mr. Syed Arsalan Abid, learned counsel representing the Bank will also appropriately file response as regards these issue i.e., access to justice, inasmuch as, this Bench is primarily concerned with the issue access to justice not with the individual merits of the case at this stage which has to be ultimately decided by the competent forum of which we are not making any observation at this stage.

08. Mr. Shamsi, learned DSGI, also will substantiate his claim that online facilities for proceeding are available by filing necessary documents/affidavit in that regard.
09. For the reasons observed above, the matter could not be taken up for final disposal.
10. All the affidavits be filed by or before **15.12.2023**, failing which, this Court will not accept any additional documents. Parties shall also exchange their pleadings in the meantime.
11. Registry shall also accept compilation of judgments which may be furnished by the respective parties.
12. List again on **18.12.2023**.
13. Interim orders passed earlier are extended till 18.12.2023.
14. Registry is directed to reflect all the matters that are clubbed with the main petition in the cause list and to place the copy of this order on each clubbed file.

(M.A. CHOWDHARY)
JUDGE

(N. KOTISWAR SINGH)
CHIEF JUSTICE

SRINAGAR
22-11-2023
Shameem H.