

SYNOPSIS, LIST OF DATES AND EVENTS & POINTS
OF LAW

The petitioner is constrained to move this Hon'ble Court under article (226) of the Indian Constitution, against the Central Ministry of Finance – for it's failure to incorporate such policies, which can prevent suicides by bankrupt individuals.

That on (12/12/2010) An article was published in - Telegraph, revealing that, a 42-year-old Delhi businessman did everything he could to pass his suicide off as murder so that his bengali wife from Calcutta, Manisha Das, could claim the insurance of Rs 10 crore. That would help pay off his debts which had run up to Rs 9 crore.

Police said Gupta, who had two daughters with Manisha, 35, was acutely depressed as his business had been running up losses since the past five years. "his wife is from Calcutta and is shattered after she learnt about the motive behind her husband's suicide," the officer added.

The above inputs can be accessed by visiting the undermentioned link -

http://www.telegraphindia.com/1101212/jsp/nation/story_13290183.jsp

That on (02/08/2012) an article was published in Times of India, revealing that, Lalit Sheth, 56th founder of the country's no. 1 leisure travel company Raj Travel World, reportedly committed suicide by jumping off the Bandra-Worli sea link on Wednesday.

Police sources claimed that Sheth ended his life due to debts. Among the possible reasons being cited for his suicide was that he owed SBI around Rs.5 crore. An official liquidator was appointed after Sheth failed to pay dues to HDFC bank and ICICI bank too. He made losses on currency fluctuations too.

Besides, arbitration proceedings were on with respect to complaints by [Tata Motors](#) and Tata Finance, where the arbitrator had sought a payment of Rs. 2 crore and surrender of seven vehicles from Raj Travels. When Raj Travels did not comply, the Tata's moved a petition in

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the high court for enforcement of the award and his arrest. The court was to look into it this month.

The above inputs can be accessed by visiting the undermentioned link -

http://articles.timesofindia.indiatimes.com/2012-08-02/mumbai/32999660_1_bandra-worli-sea-link-suicide-note-aakash

(17/04/2012) An article in - Telegraph, revealing that, all five members of a family were found dead inside their 1,600sqft flat in Moore avenue in the dead of night after neighbours were woken by the sound of windowpanes shattering, heard dog barks, and saw one of the bedrooms on fire.

Businessman Supratim Bose, 48, wife Sangeeta, 45, daughters Sharoni, 18, and Saheli, 14, and Supratim's father Sudesh, 75, all lay dead in the same bedroom when the police broke in around 2.30am. The only sound came from the ac.

The Boses had two cars and their flat would be worth around Rs. 65 lakh. But Supratim had run up a debt of

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over Rs. 80 lakh with a Nationalised bank, the police said, and recently sold a flat he owned at the near by Jyotsna Apartments.

“But that flat was mortgaged to another bank. The buyer paid only Rs 13 lakh of the agreed Rs 31 lakh saying he would clear the dues only after receiving the title deed,” an officer said.

“Supratim failed to procure the title deed from the bank as he could not clear his dues of Rs 21 lakh with that bank.”

The above inputs can be accessed by visiting the undermentioned link -

http://www.telegraphindia.com/1120417/jsp/frontpage/story_15383565.jsp

My very close friend Mr. Rajesh Shaw - residing behind Ramkrishna Mission in Narendrapur - He had his residence mortgaged with M/s. HDFC Bank & the same was taken symbolic possession only in (2011) & physical possession was still due, but was pushed to the edge because of - depleting finances & fall in social status &

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as a consequence not only allegedly took his own life but also that of his spouse & daughters !! The incident occurred on (05-08-2013).

http://www.telegraphindia.com/1130805/jsp/calcutta/story_17194106.jsp

The above instances reflect the helpless condition of small borrowers, who take their own life, due to loss of social standing as well as the impossibility to bear the pain of the suffering caused by the financial reverses. Non execution of measures by banks, to safeguard the interest of small businesses leading to the above scenario and at the same time extending huge relief to the large borrowers is violative of both article (14) and article (21) of the constitution.

Apart from the facility of BIFR. extending Corporate Debt Restructuring to corporates without declaring them to be an NPA., non undertaking of personal guarantee of directors for big corporate entities, non incorporation of precautionary measures to prevent liquidation of assets by guarantors of big corporate

houses – both during sanction & restructuring of loans & on the contrary attaching solo residential properties of small businessmen (who had availed cash credit loans) without even extending them a healthy time period to revive in a manner, by virtue of which either they can repay the current loan outstandings or can generate minimum resources to afford an alternate dwelling and place of business, should they need to surrender their existing properties against loan outstandings (property rentals are at a all time high & it becomes impossible for individuals – who have suffered financial reverses in business. Such is the predicament that – even to declare bankruptcy one has to resort for lengthy court proceedings – involving both the resources of – time and money. Further he has no scope to avail credit in future and all doors appear close to him.

The plight of businessmen who suffered financial setbacks can be well understood from the following - many individuals who have suffered financial reverses, have committed suicides. Although by official figures,

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the number of suicide cases due to bankruptcy or sudden change in economic status, is (2.2%) of total suicide causes, but the actual figure ought to be very high, given the fact that suicide is considered a crime in the nation. It is noteworthy that family problems and illness which contribute (24.3%) and (19.6%) of total suicides, are at times, very well aided by bankruptcy or sudden change in economic status. The statistics of suicide causes in India, can be obtained, by visiting the undermentioned link, of National Crime Records Bureau - <http://ncrb.nic.in/cd-adsi2011/table-2.4.pdf>

Also as per the latest data on suicides, out of total suicides by professionals committed in (2012) – (39.4%) were committed by – self employed professionals against (1.4%) by those who were employed by the government sector. The above can be validated, by visiting the undermentioned link – http://www.telegraphindia.com/1130703/jsp/nation/story_17075459.jsp#.udu6tts3dxa

Also what is further noteworthy & cannot be ignored, is the fact that - holders of cash credit accounts are into the activity of business just like any corporate, whose account is being restructured & mortgage fully paid up inputs with the bank, unlike a home loan borrower or someone who goes for a hire purchase arrangement.

To arrive at a parity at least a time frame of (05) years ought to be extended for revival (to the small accounts which have gone bad) & till such time the solo residential property among, the mortgaged properties should not be physically taken over & only symbolic possession should be resorted to !!

I am presenting a case only for entities who are extended loans based on the performance of their business & property is taken as a additional security against the loaned money. I am presenting the case for among the above category – only for those who do not receive any specialized benefit in the loan account like – subsidized interest, extended tenure of payment among other benefits !!

The public sector banks would be fulfilling their constitutional duty, by delaying taking the physical possession of properties for businessmen of the category which is abovementioned. The following reasons should justify my proposal as well as clear the apprehensions in the mind of the bankers –

A) Because unlike borrowers of pure mortgaged loans, borrowers who borrow on merit of both business as well as security - indulge in business activity and generate both direct employment as well as direct revenue for the government.

B) Because the banker conducts a thorough enquiry of the business model, business health & the securities before extending a cash credit facility.

C) Because after incorporation of – CIBIL. once the details of defaulter is extended to the credit bureau, the defaulter is not entitled to loan from any other banking entity.

D) Because in case of entities which are registered with – registrar of companies, the mortgage assets are

reflected as a charge.

E) Because property rentals are at a all time high and hence borrowers whose solo residential property is mortgaged, ought to be given time to revive so as to at least become eligible for paying rental.

F) Because probability of willingfull default by borrowers is negligible – [since they have mortgaged their (100%) owned properties and further are devoid of any opportunity, to avail loans in future, as because the banks share the data with credit bureaus].

G) Because bankruptcy proceedings are lengthy and both resources of time and money are needed to execute them.

H) Because the growth in property prices is in proportion or greater than – the prevailing bank interest rates.

The policy framers, appeared to be focused either on the moneyed class or on those, whose votes account for a large percentage. The middle class appears to be left in lurch and to fend for itself.

(15/06/2009) - An article in – The Economic Times, revealing that, the RBI. Deputy Governor is of the view that, a legal and regulatory system should be in place to protect the retail customer.

(15/12/2009) - An article in – Times of India was published revealing that, the states in which there was higher allocation of farm loan waiver contributed to higher seats for the ruling party in (2009) as compared to (2004).

(16/01/2010) - An article was published in – Times of India, revealing that, there could be a significant rise in liabilities for Indian banks with a 1% rise in their non performing assets (NPAs) in 2010, warned a Fitch report.

(11/09/2010) - An article was published in – Times of India, revealing that, in a case of PIL on Rajarhat land allotment case in Kolkata, Hon'ble Chief Justice J. N. Patel, CJ. and Hon'ble Justice B. Bhattacharya had instructed the petitioners to make newspapers party to the case owing

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to the fact that newspaper articles served as evidence in the case.

(25/11/2010) - An article was published in – Times of India, revealing that, the Central Bureau of Investigation (CBI) has arrested eight finance executives.

(12/12/2010) - An article was published in - Telegraph, revealing that, a 42-year-old Delhi businessman did everything he could to pass his suicide off as murder.

(16/11/2011) - An article was published in – IBN. Live, revealing that, an internal report of the IDBI Bank had warned UB Group Chairman Vijay Mallya that his aviation company, Kingfisher Airlines, was in the red, but despite the report since 2009 the bank has sanctioned loan to the airline of over Rs 900 crore.

(06/02/2012) - An article in – The Economic Times, revealing that, yarn, [fabric and clothing companies](#) are in a sweet spot. They owe banks so much that now it is their lenders' job to ensure they survive.

(01/03/2012) - An article in – The Economic Times, revealing that, the impact of the electoral battle in Uttar Pradesh is being felt in the board rooms of some of the largest state-run banks, as farmers in parts of the country may have started to delay repaying loans hoping for another debt waiver in the run up to general elections in 2014.

(04/04/2012) - An article in – Economic Times, revealing that, the annual default rate for entities rated by Crisil. has hit a (10) years high of (3.4%) in a FY. (2012).

(17/04/2012) - An article in - Telegraph, revealing that, all five members of a family were found dead inside their 1,600sqft flat in Moore avenue in the dead of night.

(18/05/2012) - An article in – The Economic Times, revealing that, bankers admit that lending institutions have suffered losses in the past one year for agreeing to convert distressed loans into cumulative convertible preference shares (ccps) or other quasi-equity securities.

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(03/07/2012) - An article in – Times of India, revealing that, ICICI Bank has offloaded its entire Rs 430-crore debt exposure in kingfisher airlines (KFA) to a debt fund of Srei venture capital (SVCL).

(01/08/2012) - An article was telecasted in moneycontrol.com a financial portal revealing that, Lenders have referred 19 loan recast cases worth Rs 11,000 crore to the corporate debt restructuring (CDR) cell in July.

(02/08/2012) - an article was published in - Times of India, revealing that, Lalit Sheth, 56th founder of the country's no. 1 leisure travel company Raj Travel World, reportedly committed suicide by jumping off the Bandra-Worli sea link on Wednesday.

(11/08/2012) - An article telecasted in – NDTV. Profit, revealing that, Reserve Bank of India Deputy Governor (for banking supervision) K.C. Chakrabarty said on Saturday that domestic corporate debt restructuring has not being conducted in an objective manner and is heavily biased in favour of public sector banks.

(12/08/2012) - An article published in – Business Standard, revealing that, Banks are giving preferential treatment to the corporate sector in debt restructuring, and tend to ignore the retail, agriculture and small and medium enterprise (SME) sectors, which are also the victims of economic downturn, according to Reserve Bank of India (RBI.) Deputy Governor, K C Chakrabarty.

(12/08/2012) - An article published in Indian Express, revealing that, as per the Deputy Governor, restructuring by banks are not transparent.

(28/08/2012) - An article published in – The Economic Times, revealing that, the pressure of rising bad debts is prompting banks to find innovative ways to disguise stress loans - a move which could impact banks' balance sheet if the economy does not revive in short-term.

(31/08/2012) - An article published in – The Economic Times, revealing that corporate loans debt restructuring will soar to 3.25 lakh crore this fiscal, about 13 times the annual budget for building

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roads, as companies come under stress due to the worsening economic slowdown.

(08/09/2012) - An article published in – Indian Express, revealing that, what's the real level of non performing assets (NPAs) in the Indian banking system? NPAs, or loans defaulted by borrowers for a period of 90 days, could be more than double of what has been already announced by the banks as they have found a way out to repackage the problematic loan accounts and brush them under the carpet.

(02/10/2012) - An article in – The Economic Times, revealing that The economic slowdown and high interest rates are now beginning to hit the small and medium enterprises. In the first half of 2012 the corporate debt restructuring cell has received 69 applications for debt recast worth Rs 37,547 crore.

(29/10/2012) - An article published in – The Economic Times, revealing that, a finance ministry official said loans extended to Kingfisher Airlines, Deccan Holdings and Zoom Developers all of which have turned bad alone

runs into Rs.13,000 crore.

(30/10/2012) - An article published in – The Times of India, revealing that, the skewed numbers of public sector banks point to misuse of the corporate debt restructuring mechanism to hide bad debts.

(06/11/2012) & (06/12/2012 - The following RTI. queries had been extended to M/s. Reserve Bank of India vide RTI. vide EW – (033063697IN; 033076660IN; 033076316IN; 033076656IN; 033076293IN; 033076280IN) and replies received.

(03/12/2012) - An article in, Economic Times, revealing that, there were violations by some state owned lenders in loans to Deccan Chronicle Holdings.

(22/03/2013) - An article in, Times of India, revealing that, how as on December'2012 the percentage cut in gross NPA. was (33.8%) but of that (32%) were writeoff and not recovery.

(18/04/2013) - An article in, Economic Times, revealing that, as per – Global Financial Stability Report of International Monetary Fund - While many countries

have been active in adopting more stringent impaired loan recognition standards, there are concerns about asset restructuring practices and lax definition of distressed assets in India.

(27/05/2013) - An article in, Economic Times, revealing that, state owned banks have lost (4000) crores due to stand by letter of credit facility, in favour of Global Bullion Banks.

(27/05/2013) - An article in, Economic Times, revealing that, as per the country's top investigation agency (CBI.) the discretionary powers of – Chairman and Executive Directors of State Owned Banks, should be revoked in order to curb corruption.

(05/06/2013) - An article in, Economic Times, revealing that, Private Sector Lenders, have out performed their state run peers, due to better risk management and lower exposure to stressed sectors.

(05/07/2013) - An article in, Economic Times, revealing that, shares of public sectors bank have crashed upto (25%) over fears of growing non performing assets.

(05/08/2013) An article in, Telegraph, revealing that, how a businessman who was heavily into debts, killed himself as well as his family members.

(03/01/2014) Letter by the petitioner to the – Finance Minister, Govt. of India.

That it is noteworthy that many individuals who have suffered financial reverses, have committed suicides. Also as per the latest data on suicides, out of total suicides by professionals committed in (2012) – (39.4%) were committed by – self employed professionals.

24/01/2014 – Hence this PIL.

POINTS OF LAW

1. Whether the respondent authority, has acted unconstitutionally by not executing measures, which can act as a deterrent towards preventing – suicides by individuals who have gone bankrupt.
2. Whether the respondent authority, can incorporate the prayers without any change in the existing laws, by virtue of an executive notification.