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कृष्णा आशुलिपिक संस्थान

(English Only) By. A.V. Kushwaha

(For Govt. Jobs, SSC (Group D & C), Supreme Court, High Court, District Courts, ASRB, CRPF, Railway, CBSC & all other departments requiring "English Stenographer/Personal Assistant/Private Secretary")

(87, Sulem Sarai, Prayagraj, Uttar Pradesh)

(Contact No. 7355504435)

Note:

- 1. This dictation has two parts ie dictations No. 9 & 10.**
- 2. First, the dictation passage will be provided.**
- 3. Then outlines of important underlined words and phrases.**
- 4. Thereafter, important vocabulary and accuracy tips.**
- 5. Lastly, Some analysis of punctuation.**

SSC/Court Skill Test Based Dictations: It covers all skill tests conducted by SSC etc including any Court (Supreme Court, High Court, District Courts, Tribunals, Law Firms).

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NOTE: Very important latest created passage for Supreme Court/High Court/District Court/Tribunal etc. related skill tests apart from speed building.

Topic: SARFAESI Proceedings (Bank Loan matters)

Volume 1, Dictation No. 9

Note: Outlines of all highlighted words/phrases are given at the end of the passage. Adopt all better outlines than yours.

The present appeal arises out of the judgment and order passed by the High Court, whereby the writ petition filed by the appellant came to be dismissed on the ground of availability of an alternative statutory remedy.

At the very outset, it is necessary to bring into notice the factual matrix giving rise to the litigation. The appellant is a private limited company engaged in the business of agro-based products. In the ordinary course of business, the appellant availed of certain financial facilities from the respondent bank. The relationship between the parties was smooth for a period of time, but with the passage of events, defaults occurred, and the account of the appellant was classified as a non-performing asset. Notices under the statutory

framework were thereafter issued by the bank, culminating in measures under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The appellant, instead of availing of the statutory remedy provided before the Debts Recovery Tribunal, invoked the jurisdiction of the Civil Court and thereafter the High Court, raising questions relating to the legality of the bank's action.

The learned counsel appearing on behalf of the appellant has strenuously urged before this Court that the action of the bank suffers from gross illegality inasmuch as the declaration of the account as a non-performing asset was itself without authority of law and contrary to the guidelines issued by the Reserve Bank of India. It is further contended that once the foundation of the classification is illegal, every subsequent step, including issuance of notice, possession of secured assets, and proposed auction, must fall to the ground. According to the appellant, the High Court has abdicated its constitutional responsibility in refusing to entertain the writ petition merely on the ground of existence of an alternative remedy, when the action of the bank was wholly without jurisdiction and in breach of the fundamental rights guaranteed under Article 14 and Article 19(1)(g) of the Constitution of India.

Per contra, learned counsel for the respondent bank has submitted that the appeal is wholly devoid

of merit. It is submitted that the statutory scheme is complete in itself and provides an efficacious remedy before the Debts Recovery Tribunal, which is empowered to examine every grievance that the borrower may have against the measures adopted by the secured creditor. It is further contended that the jurisdiction of the Civil Court is clearly barred by virtue of Section 34 of the Act of 2002, and that the High Court was fully justified in declining to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India. Learned counsel has drawn attention to a long line of precedents beginning with the judgment in Mardia Chemicals vs. Union of India and extending to several subsequent pronouncements, wherein it has been consistently held that the borrowers must ordinarily approach the Tribunal and not bypass the statutory remedy by invoking the writ jurisdiction.

Having considered the rival submissions, this Court is of the opinion that certain legal issues arise for determination, namely, whether the writ petition was maintainable before the High Court, whether the action of the bank in declaring the account as a non-performing asset can be challenged in a civil suit, and whether the rejection of the plaint by the Commercial Court was justified. Before adverting to these issues, it is necessary to recall the principles laid down by this Court in earlier decisions. It is a settled proposition of law that the jurisdiction of

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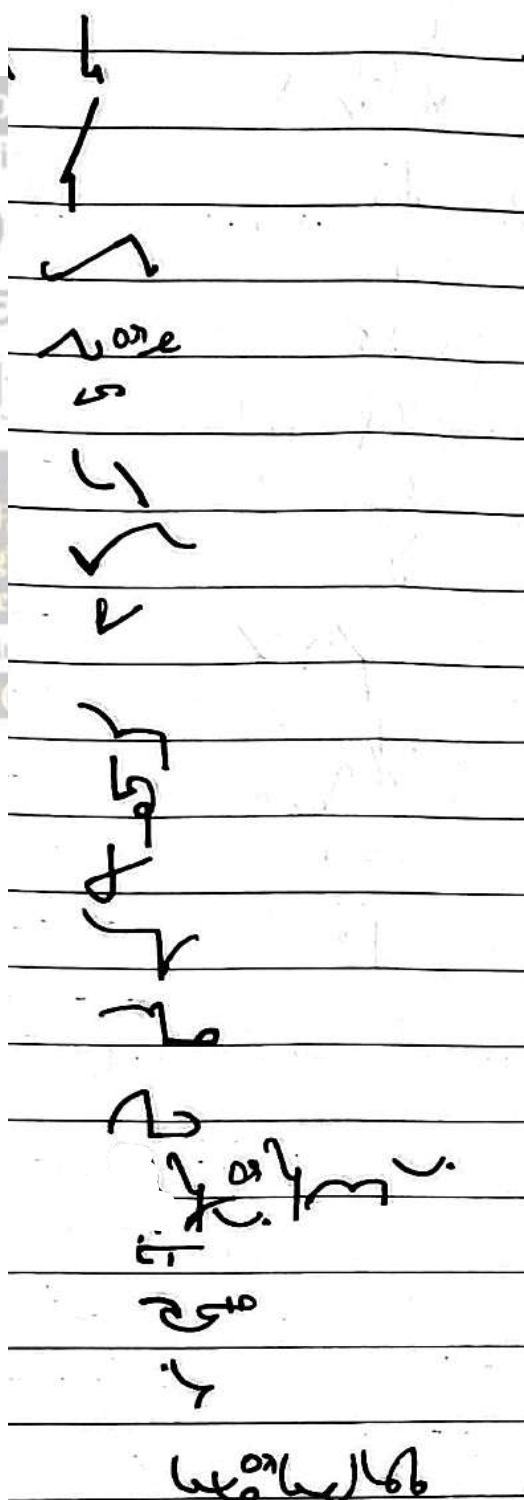
the Civil Court is ousted in matters which fall within the purview of the learned Tribunal.

Total Words: 601

Outlines of all highlighted words and phrases.

Note: Adopt only those outlines which are better than yours.

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statutory
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private limited company
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Assets
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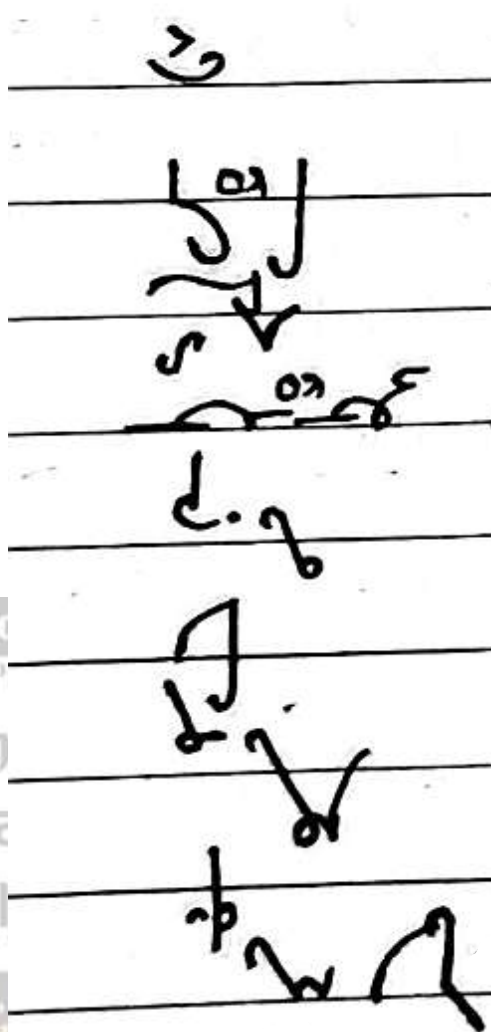
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of the opinion
determination
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challenged
Commercial Court
adverting
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purview of the
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other departments requiring "English Stenographer/
Personal Assistant/Private Secretary"

(87, Sulem Sarai, Prayagraj, Uttar Pradesh)

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(Increase your vocabulary:

Learn New and Important Words of the Matter)

Keep revising all new words learned.

Legal/General Matter (Legal Vocabulary Building)

1. **whereby:** (adverb/conjunction) by which; by means of which जिसके द्वारा
2. **writ petition:** (noun) a formal written order issued by a court रिट याचिका
3. **availability:** (noun) the state of being available or accessible उपलब्धता
4. **alternative:** (adjective/noun) another option; different choice विकल्प
5. **statutory remedy:** (noun phrase) legal solution provided by law वैधानिक उपचार
6. **at the very outset:** (adverbial phrase) at the very beginning बिल्कुल शुरुआत में
7. **factual matrix:** (noun phrase) the set of facts in a case तथ्यात्मक ढांचा

- 8.litigation:** (noun) the process of taking legal action
मुकदमेबाजी
- 9.agro:** (adjective prefix) relating to agriculture कृषि संबंधी
- 10.ordinary course:** (noun phrase) normal/usual procedure सामान्य क्रम
- 11.availed:** (verb) (past tense) used or took advantage of लाभ उठाया
- 12.smooth:** (adjective) without problems or difficulties सुचारू
- 13.events:** (noun) (plural) things that happen घटनाएं
- 14.defaults:** (noun/verb) (plural/present tense) failures to pay debts चूक
- 15.occurred:** (verb) (past tense) happened घटित हुआ
- 16.classified:** (verb) (past tense) categorized वर्गीकृत किया
- 17.non-performing asset:** (noun phrase) a loan/advance that has stopped generating income अनर्जक परिसंपत्ति
- 18.framework:** (noun) basic structure or system ढांचा

- 19.culminating:** (verb) (present participle) reaching the highest point परिणत होना
- 20.Securitisation:** (noun) process of converting assets into securities प्रतिभूतिकरण
- 21.Reconstruction of Financial Assets:** (noun phrase) rebuilding financial assets वित्तीय परिसंपत्तियों का पुनर्निर्माण
- 22.Enforcement:** (noun) the act of compelling compliance लागू करना
- 23.Security:** (noun) collateral or guarantee प्रतिभूति
- 24.availing:** (verb) (present participle) using or taking advantage of लाभ उठाना
- 25.Debts Recovery Tribunal:** (noun phrase) specialized court for debt recovery ऋण वसूली न्यायाधिकरण
- 26.invoked jurisdiction:** (verb phrase) called upon court's authority न्यायाधिकार का आह्वान किया
- 27.legality:** (noun) the quality of being legal वैधता
- 28.strenuously:** (adverb) with great effort and determination कड़ी मेहनत से

29.gross illegality: (noun phrase) serious violation of law
घोर अवैधता

30.inasmuch as: (conjunction) to the extent that;
because जहां तक कि

*Accuracy Mantra: This is two word. If you type it as
in as much as (four words), there will be one full
error.*

31.contended that: (verb phrase) argued that तर्क
दिया कि

32.foundation: (noun) basic underlying principle or
basis आधार

33.classification: (noun) the action of categorizing
वर्गीकरण

34.possession: (noun) the state of owning or
controlling कब्जा

35.secured assets: (noun phrase) assets given as
collateral प्रतिभूत परिसंपत्ति

36.auction: (noun/verb) public sale to highest bidder
नीलामी

37.abdicated: (verb) (past tense) gave up
responsibility त्याग दिया

38.fundamental rights: (noun phrase) basic constitutional rights मौलिक अधिकार

39.breach: (noun/verb) violation or breaking उल्लंघन

40.devold: (adjective) completely lacking in रहित

Accuracy Mantra: This word is often followed by preposition 'of', especially in legal dictations.

41.wholly: (adverb) entirely; completely पूर्णतः

42.efficacious: (adjective) effective; producing desired result प्रभावी

43.empowered: (verb) (past tense) given authority or power सशक्त किया

44.grievance: (noun) complaint or feeling of injustice शिकायत

45.barred: (verb) (past tense) prohibited or blocked प्रतिबंधित

46.by virtue of: (preposition phrase) because of; by means of के आधार पर

47.declining: (verb) (present participle) refusing to accept इनकार करना

48.extraordinary jurisdiction: (noun phrase) special legal authority असाधारण न्यायाधिकार

- 49.precedents:** (noun) (plural) previous legal decisions
पूर्व निर्णय
- 50.pronouncements:** (noun) (plural) formal
declarations or judgments घोषणाएं
- 51.consistently:** (adverb) in a way that does not vary
लगातार
- 52.borrowers:** (noun) (plural) people who borrow
money उधारकर्ता
- 53.ordinarily:** (adverb) usually; normally सामान्यतः
- 54.bypass:** (verb) avoid or go around दरकिनार करना
- 55.writ jurisdiction:** (noun phrase) court's power to
issue writs रिट न्यायाधिकार
- 56.rival submissions:** (noun phrase) opposing legal
arguments प्रतिद्वंद्वी तर्क
- 57.determination:** (noun) the process of deciding
निर्धारण
- 58.maintainable:** (adjective) capable of being
sustained or upheld निर्वाह योग्य
- 59.adverting:** (verb) (present participle) referring to
or mentioning संदर्भित करना

60.principles: (noun) (plural) fundamental rules or beliefs सिद्धांत

61.proposition of law: (noun phrase) legal principle or rule कानून का सिद्धांत

62.ousted: (verb) (past tense) removed from position or authority हटाया गया

63.purview of: (noun phrase) scope or range of authority क्षेत्राधिकार में

Accuracy Builder: following words occurred in the dictation is to be capitalized;

CAPITALIZED WORDS AND REASONS:

- 1.High Court** - Proper noun referring to a specific judicial body
- 2.Court** (when referring to Supreme Court) - Always capitalized when referring to the Supreme Court of India or any other specific court.
- 3.Civil Court** - Proper noun referring to a specific type of court

4. **Debts Recovery Tribunal** - Proper noun; official name of a specific legal institution
5. **Section 13(4)** - Statutory references are capitalized when referring to specific provisions
6. **Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002** - Official name of a specific act/law is capitalized
Accuracy Mantra: Always put a comma just before year as highlighted above.
7. **Reserve Bank of India** - Proper noun; official name of a specific institution
8. **Article 14** - Reference to specific constitutional provision
9. **Article 19(1)(g)** - Reference to specific constitutional provision
10. **Constitution of India** - References to constitutions are capitalized when referring to specific documents
11. **Article 226** - Reference to specific constitutional provision

12. Mardia Chemicals vs. Union of India - Case name (proper noun)

13. Union of India - Proper noun; official name of the Indian government as a legal entity

14. Commercial Court - Proper noun referring to a specific type of court

15. Tribunal - Capitalized when referring to a specific judicial body. If it is not in specific sense, it is transcribed in small letter.

Accuracy Builder: Analysis from the passage dictated today.

1. INTRODUCTORY PHRASES/CLAUSES

Use commas after introductory phrases that come before the main clause

- "At the very outset, it is necessary..."
- "In the ordinary course of business, the appellant availed..."
- "According to the appellant, the High Court has abdicated..."

Simple Rule: When you start a sentence with a phrase that sets up the main idea, put a comma after it.

2. NON-RESTRICTIVE (EXTRA INFORMATION) CLAUSES

Use commas to enclose clauses not essential to the meaning of a sentence

- "...the writ petition filed by the appellant, whereby the writ petition filed by the appellant came to be dismissed, on the ground..."
- "...the appellant, instead of availing of the statutory remedy, invoked the jurisdiction..."

Simple Rule: If you can remove the information between commas and the sentence still makes sense, use commas around it.

3. COMPOUND SENTENCES (JOINING CLAUSES)

Use commas before coordinating conjunctions (but, and, or) when joining independent clauses

- "The relationship between the parties was smooth for a period of time, but with the passage of events, defaults occurred..."
- "...defaults occurred, and the account of the appellant was classified..."

Simple Rule: When joining two complete thoughts with "and," "but," "or," put a comma before the connecting word.

4. ITEMS IN A SERIES

Use commas to separate items in a list

- "...including issuance of notice, possession of secured assets, and proposed auction..."
- "...clauses, phrases, or words..."

Simple Rule: When listing three or more items, put commas between them.

5. TRANSITIONAL PHRASES

Use commas after transitional words and phrases

- "Per contra, learned counsel for the respondent..."

Simple Rule: Words like "however," "therefore," "per contra" get commas after them.

6. PARTICIPIAL PHRASES

Use commas with participial phrases

- "Having considered the rival submissions, this Court is of the opinion..."

Simple Rule: When a sentence starts with an "-ing" word or phrase describing action, put a comma after it.

7. APPOSITIVES (RENAMING PHRASES)

- "...the appellant, instead of availing of the statutory remedy provided before the Debts Recovery Tribunal, invoked the jurisdiction..."

Simple Rule: When you add extra information that renames or explains something, surround it with commas.

8. BEFORE RELATIVE CLAUSES

- "...Tribunal, which is empowered to examine every grievance..."

- "...clauses, wherein it has been consistently held..."

Simple Rule: Use commas before "which," "who," "where," "when" if the information is extra (not essential).

By Sir AV Kushwaha,

Principal,

Krishna Shorthand Institute,

via online Telegram Class through 7355504435