RAJASTHAN HIGH COURT
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HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT JAIPUR

D.B. Special Appeal Writ No. 1071/2025
CNR: RJHC020772152025 | URN: SAW / 2272U / 2025

Rajasthan High Court
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Amit Prakash Gupta S/o Late Shri Indra Prakash, Aged About 61 Years, R/o House No.-512, Panch Ratna Complex, Fatehpura, Udaipur- 313001

----Appellant

Versus

1. Bank Of Baroda, Having Its Office At Opposite Town Hall, Udaipur, Rajasthan- 313001 Through Its Assistant General Manager, (Now) Through Authorised Officer Pratap Singh Meena, Chief Manager.
2. U.N. Automobiles Pvt. Ltd., Having Its Registered Office At UN Automobiles Workshop, Goverdhan Vilas, Udaipur 313001
3. Amita Prakash Gupta, Wife Of Shri Amit Prakash Gupta, R/o. House No. 512, Panch Ratna Complex, Fatehpura, Udaipur -313001 (Since Deceased) Through L.Rs.

3/1. Amit Prakash Gupta S/o Late Shri Indra Prakash, Aged About 61 Years, R/o House No. 512, Panch Ratna Complex, Fatehpura, Udaipur- 313001.

3/2. Mrs. Priyanka Sharma, Wife Of Shri Vikas Sharma

3/3. Mrs. Sumaya Dalmia Wife Of Shri Rudra Dalmia, No. 3/2 And 3/3 Are Through Power Of Attorney
Shri Amit Prakash Gupta R/o House No. 512, Panch Ratna Complex, Fatehpura, Udaipur- 313001.

----Respondents

For Appellant(s)	:	Mr. Kamlakar Sharma, Sr. Advocate assisted by Ms. Anita Agarwal Mr. Laxmi Kant Mr. Yogesh Kalla Mr. Vibhanshu Sharma
For Respondent(s)	:	Mr. Shivangshu Naval Mr. Prabhans Sharma Mr. Nagendra Singh Ms. Srishti

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RAJASTHAN HIGH COURT

HON'BLE MR. JUSTICE ARUN MONGA

HON'BLE MR. JUSTICE ANUROOP SINGHI

Order

Date of Conclusion of Arguments	**16.09.2026**
Date on which judgment was reserved	**16.09.2026**
Whether the full judgment or only the operative part is pronounced	**Full Judgment**
Date of pronouncement	**02.11.2026**

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Reportable

BY THE COURT:-(Per:Hon'ble Mr. Justice Anuroop Singhi, J.)

CHALLENGE:

1. Impugnment in the present special appeal, filed by the appellant who is the suspended Director of respondent No. 2 - borrower company - U.N. Automobiles Private Limited, is the judgment dated 29.08.2025 passed by the learned Single Judge in S.B. Civil Writ Petition No. 8690/2023, whereby the writ petition filed by the respondent No.1 - Bank of Baroda (hereinafter referred to as '**respondent -Bank**') has been allowed and the order dated 23.05.2023 passed by the Debts Recovery Tribunal, Jaipur (hereinafter referred to as "**DRT**") has been quashed and set aside.

2. Vide the said order dated 23.05.2023, the DRT had disposed of the Miscellaneous Application (hereinafter referred to as '**M.A**') No. 81/2018, filed by the appellant along with respondent No.2-borrower company (applicants therein), by granting them a further period of twelve months for payment of the balance amount payable under the One-Time Settlement (hereinafter referred to as "**OTS**") arrived at between the respondent No.2 – borrower company and the respondent – Bank.

FACTUAL MATRIX:

3. Facts relevant for adjudication of the present appeal are as follows:

3.1. The respondent No.2 – borrower company – U.N. Automobiles Private Limited, had initially availed credit facilities from State Bank of India amounting to Rs.35 crores. Thereafter, the respondent – Bank on being approached by respondent No.2 –

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borrower company, took over the said loan and sanctioned a corporate loan of Rs.15 crores and cash credit facility of Rs.20 crores which were renewed from time to time and as per the last sanction, aggregate facilities of approximately ₹47.46 crores were granted to respondent No. 2 – borrower company.

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On account of adverse financial circumstances, the respondent No.2 - borrower company failed to maintain its financial discipline resulting into its loan account being declared a Non-Performing Asset (‘**NPA**’) on 29.08.2012. Consequently, the respondent-Bank initiated recovery proceedings by filing an Original Application being O.A. No. 10/2014, before DRT, Jaipur.

3.2. During the pendency of the recovery proceedings, the parties, viz. the respondent – Bank and respondent No.2 - borrower company, entered into an OTS pursuant to sanction letter dated 24.12.2015. In terms of the said OTS, the amount payable by the respondent No.2 - borrower company was approximately Rs.44.83 crores against the total outstanding dues of approximately Rs.65.79 crores, subject to the terms and conditions of the OTS and the said compromise was valid upto 31.03.2018.

3.3. Accordingly, on 28.01.2016, the DRT passed a consent order and issued a consent recovery certificate recording the settlement terms between the parties. Thereafter, on a joint application filed by the parties, the amended consent order was passed and an amended consent recovery certificate was issued by the DRT on 30.03.2016 vide which condition No. 15 was amended. As per the terms and conditions of the OTS, the respondent No.2 - borrower company was required to pay the settled amount on or before 31.03.2018. The said period of compromise for ensuring payment of dues was subsequently extended upto 30.06.2018.

3.4. Since the payment could not be made by the respondent No.2 - borrower company within the stipulated time period, the respondent - Bank issued multiple letters dated 01.09.2018, 06.09.2018 and 18.09.2018 stating that the OTS

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stood frustrated on account of the failure of the respondent No.2 - borrower company to comply with its terms.

3.5. The appellant along with respondent No.2 - borrower company challenged those communications by filing S.B. Civil Writ Petition No. 15514/2018 before the Principal Seat, Jodhpur, which was dismissed vide order dated 12.10.2018, leaving it open for them to approach the DRT in accordance with law.

3.6. Accordingly, the appellant and the respondent No.2 - borrower company filed M.A No. 81/2018 before the DRT, Jaipur, alleging that the respondent – Bank miserably failed to honour its reciprocal obligations on account of which it failed to make the due payments within the agreed time as per the OTS. It was further alleged that the respondent - Bank imposed unwarranted conditions and created obstacles in the sale of the mortgaged properties and delayed making the original property documents available for inspection. The said facts were disputed by the respondent-Bank which submitted that it had acted as per the terms of the OTS and it was only on account of the failure of the respondent No.2 - borrower company to make the stipulated payments within the agreed period, that the OTS stood frustrated.

3.7. The said application remained pending before the DRT for approximately five years and during the pendency of the application, the DRT passed various orders permitting the sale of certain mortgaged properties and the respondent-Bank issued no-objection certificates in compliance of those orders. According to the appellant and the respondent No.2 - borrower company, as out of the proceeds received from the sold properties, an aggregate amount of approximately Rs.12.11 crores was deposited with the respondent – Bank, which was even accepted by it without any protest and that too after the expiry of time-period as agreed vide the OTS/compromise, the respondent – Bank could not dispute that the OTS was still valid. However, the respondent – Bank disputed the said inference and submitted that its participation did not amount to consent to any further modification of the OTS.

3.8. In the meanwhile, the respondent – Bank also initiated proceedings under Section 7 of the Insolvency and Bankruptcy

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Code, 2016, (hereinafter referred to as '**IBC, 2016**') before the National Company Law Tribunal (hereinafter referred to as '**NCLT**') Jaipur, by filing Company Petition No. IB-75/7/JPR/2022. The said application was admitted by the NCLT vide order dated 28.08.2024 and an Interim Resolution Professional (hereinafter referred to as '**IRP'**) was appointed, resulting into suspension of the powers of the Board of Directors of the respondent No.2-borrower company.

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3.9. The DRT vide order dated 23.05.2023 held that it was the respondent – Bank which created hurdles in the efforts of the appellant and the respondent No.2 - borrower company in ensuring payment of the amount of settlement and accordingly, modified the amended consent recovery certificate dated 30.03.2016 and granted the appellant and the respondent No.2 - borrower company, a further period of twelve months to pay the remaining outstanding amount under the OTS.

3.10. Aggrieved by the aforesaid order, the respondent-Bank filed S.B. Civil Writ Petition No. 8690/2023 before this Court, wherein vide judgment dated 29.08.2025, the learned Single Judge by holding that the DRT lacked jurisdiction to modify the terms of OTS and the amended consent recovery certificate, allowed the writ petition and set aside the order dated 23.05.2023 passed by the DRT.

3.11. The appellant has preferred the present special appeal challenging this judgment dated 29.08.2025.

SUBMISSIONS ON BEHALF OF THE APPELLANTS:

4. Mr. Kamlakar Sharma, learned Senior counsel assisted by Ms. Anita Agarwal, learned counsel for the appellants has made the following submissions:

4.1 Section 19(25) of the Recovery of Debts and Bankruptcy Act, 1993 (hereinafter referred to as '**the Act of 1993'**) invoking which the said M.A was filed, duly empowers the DRT to make such orders and issue such directions as may be necessary or expedient to give effect to its orders, prevent abuse of its process or to secure the ends of justice and the DRT rightly exercised the said power to ensure implementation of the amended consent recovery certificate in the light of the alleged failure of the

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respondent-Bank to fulfil its reciprocal obligations and thus, present case is not one of *coram non judice*;

4.2 It is a matter of record that vide order dated 12.10.2018 passed in S.B CWP No. 15514/2018 at Principal Seat, Jodhpur, the respondent No.2-borrower company was granted liberty to approach the DRT in accordance with law, which was never challenged by the respondent-Bank and thus, the jurisdiction of the DRT in entertaining the M.A cannot be now disputed by the respondent-Bank;

4.3 The learned Single Judge has erred by not considering the provision of Section 22(2)(e) of the Act of 1993, which provides the power of review to the DRT and even if M.A No. 81/2018 dated 25.10.2018 was not filed under Section 22(2)(e) and no prayer for review was explicitly sought, the learned Single Judge ought to have considered the said provision to hold that the order dated 23.05.2023 was rightly passed. Accordingly, the learned Single Judge erred in relying upon the judgment of the Hon'ble Supreme Court in ***State Bank of India & Ors. v. S.N. Goyal***, reported in ***(2008) 8 SCC 92***, to hold that the DRT had become *functus officio*, without properly appreciating the statutory power of review;

4.4 The dispute was not about granting a fresh OTS or conferring a new benefit upon the borrower, rather, it concerned the implementation of the existing OTS and the amended consent recovery certificate, which contained reciprocal obligations on the part of the respondent No.2 – borrower company and the respondent - Bank. The DRT, vide order dated 23.05.2023 did not rewrite the settlement or grant a fresh OTS, but merely granted further time to respondent No.2 – borrower company to perform its obligations under the existing consent decree and the said extension was to secure performance of the original settlement, rather than to substitute its terms.

In support of the said submission that the parties are required to perform their reciprocal obligations in terms of the consent decree, reliance has been placed upon the judgment passed by the Hon'ble Supreme Court in ***Rangnath Haridas v.***

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Dr. Shrikant B. Hegde, reported in ***(2006) 7 SCC 513*** to submit that the parties should be directed to perform their respective reciprocal obligations in accordance with the terms of the consent decree;

4.5 The respondent No.2 - borrower company made substantial payments and continued to take steps for the sale of the mortgaged properties in order to make payment of the settled amount and the DRT permitted the sale of the properties through orders dated 31.07.2019, 31.10.2019, 30.10.2021, 20.12.2021 and 08.02.2023, and the respondent-Bank issued the corresponding no-objection certificates and thus, the respondent – Bank was aware of and even participated in the process of realisation of proceeds from the mortgaged properties. Therefore, the conduct of the respondent-Bank, including its participation in the proceedings and acceptance of sale proceeds, amounted to its waiver/acquiescence and it cannot now question the jurisdiction of the DRT;

4.6 The DRT, after considering the pleadings and material on record found the respondent-Bank responsible for causing delay and creating hurdles in the implementation of the amended consent recovery certificate;

4.7 The judgment of the Hon'ble Supreme Court in ***State Bank of India v. Arvindra Electronics Pvt. Ltd***. reported in ***(2023) 1 SCC 540***, relied upon by the learned Single Judge is distinguishable and would not apply to the facts of the present case, as the present matter concerns the failure of the respondent-Bank to fulfil its reciprocal obligations under the consent decree and not the grant of any benefit under an OTS. Similarly, the judgment of the Hon'ble Supreme Court in ***Bijnor Urban Cooperative Bank Ltd. & Ors v. Meenal Agarwal & Ors*** reported in ***(2023) 2 SCC 805***, is also distinguishable because it concerned a direction issued by the High Court to a bank to grant the benefit of an OTS, whereas no such direction was sought in the present case, rather, the borrower approached the DRT to secure implementation of the settlement already recorded by it. The reliance placed upon the judgment of Hon'ble

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Supreme Court in ***Jaipur Vidyut Vitran Nigam Ltd. & Ors v. Adani Power Rajasthan Ltd. & Anr.***, reported in ***2024 SCC OnLine SC 313***, is also misplaced as the proceedings before the DRT did not seek to alter the terms of original order or a substantive modification of the amended consent recovery certificate, but sought further time to complete the settlement in view of the alleged non-performance of reciprocal obligations by the respondent-Bank;

4.8 Reliance is placed upon the judgment of the Hon'ble Supreme Court in ***Smt. Periyakkal and Ors. v. Smt. Dakshyani***, reported in ***(1983) 2 SCC 127*** to submit that where the terms of a compromise have merged into an order of the Court, the Court retains the power to extend time in an appropriate case to prevent manifest injustice and therefore, the DRT was justified in granting further time in the facts of the present case;

4.9 The respondent-Bank had the statutory remedy of filing appeal against the DRT's order before the Debt Recovery Appellate Tribunal ('**DRAT**'), but instead the respondent-Bank invoked the writ jurisdiction of this Court and thus, the writ petition ought not to have been entertained, particularly when the DRT acted within its statutory jurisdiction;

4.10 In the proceedings initiated by the respondent-Bank under Section 7 of the IBC, 2016, and the subsequent proceedings before the NCLT and NCLAT, a resolution plan for approximately Rs.31 crore had been approved by the Committee of Creditors, in which the respondent-Bank was stated to be the sole creditor, and that subsequent proceedings concerning the resolution professional and the corporate insolvency resolution process ('**CIRP'**) had affected the course of the insolvency proceedings. The outstanding amount under the amended consent recovery certificate being Rs.26.07 Crores and the amount in the proposed resolution were not substantially different and thus, granting the respondent No.2-borrower company a further opportunity to perform its obligations under the settlement would enable the

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respondent-Bank to recover its dues without further litigation and would also provide an opportunity to revive the company.

5. On the aforesaid grounds, learned Senior counsel prays that the present special appeal be allowed and the judgment dated 29.08.2025 passed by the learned Single Judge be quashed and set aside, and the order dated 23.05.2023 passed by the DRT be restored.

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SUBMISSIONS ON BEHALF OF THE RESPONDENT-BANK:

6. *Per contra*, Mr. Shivangshu Nawal, learned counsel appearing for the respondent-Bank opposes the appeal and has made the following submissions:

6.1 DRT grossly exceeded its jurisdiction by modifying/altering the amended consent order and amended consent recovery certificate which is impermissible, more particularly when the grounds and reasons on which the said modification/alteration was sought by the appellant were seriously disputed by the respondent – Bank. The power under Section 19(25) of the Act of 1993, is intended to enable the Tribunal to give such directions as may be necessary or expedient to give effect to its orders, prevent abuse of its process and secure the ends of justice, however, such a provision, does not confer an unrestricted power to modify a concluded consent decree or to alter the substantive contractual rights of the parties after final disposal of the proceedings. In support of the aforesaid submission, reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***Standard Chartered Bank v. Dharminder Bhohi & Ors.***, reported in ***(2013) 15 SCC 341***, to submit that the Tribunal is required to function within the statutory parameters and that Section 19(25) confers limited powers which cannot be invoked to confer jurisdiction or powers not vested in the Tribunal by the legislature;

6.2 Similarly, the provisions of Section 22(2)(e) of the Act of 1993 read with Rule 5A of the Debts Recovery Tribunal (Procedure) Rules, 1993 (hereinafter referred to as '**the Rules of 1993**') could be invoked only if there exists any error apparent on the face of the record and admittedly, no such error apparent on

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the face of the record was pointed out in the M.A filed before DRT. Even no reference of the said provisions finds place in the M.A filed by the appellant and respondent No.2– borrower company.;

6.3 Pursuant to the OTS sanction letter dated 24.12.2015, a consent order and consent recovery certificate were issued by the DRT on 28.01.2016, followed by an amended consent order and amended consent recovery certificate dated 30.03.2016. The settlement required the borrower to make payment within the stipulated period, which was valid up to 31.03.2018. At the borrower's request, the respondent-Bank granted a further extension of three months, up to 30.06.2018. However, as the borrower failed to make payment in accordance with the agreed terms, vide letters dated 01.09.2018, 06.09.2018 and 18.09.2018, the respondent-Bank rightly informed the borrower that the OTS stood frustrated.

The OTS involved a substantial sacrifice by the respondent-Bank, as the settlement amount was approximately Rs.44.43 crore against total dues of approximately Rs.65.79 crore and that the respondent-Bank has already granted the borrower sufficient time and concessions and therefore, the borrower could not claim a further extension as a matter of right. The borrower’s failure to comply with the settlement terms entitled the respondent-Bank to withdraw the concessions granted under the OTS and pursue recovery of the outstanding dues in accordance with law;

6.4 Time was the essence of the OTS and as per its agreed terms, the entire payment was to be made by the respondent No.2 – borrower company on or before 30.06.2018 and extending the said time period by further period of twelve months from the date of the order i.e. 23.05.2023 is certainly a substantial modification of the consent recovery certificate, which is certainly beyond the jurisdiction of DRT. Such an extension effectively rewrote the contract between the parties and imposed a fresh obligation upon the respondent-Bank to continue with a settlement, which it had already treated as frustrated.

Reliance has been placed upon the judgement of Hon’ble Supreme Court in ***Arvindra Electronics (supra)*** to submit that

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rescheduling payments under an OTS amounts to modification of the contract, which can be undertaken only by mutual consent in terms of Section 62 of the Indian Contract Act, 1872. Judgment of the Hon'ble Supreme Court in ***Dayal Singh & Ors. v. Union of India & Ors.***, reported in ***(2003) 2 SCC 593***, has also relied upon to submit that a concluded contract cannot be novated or modified without the agreement of both parties.

Reliance has also been placed upon the judgement of Hon'ble Supreme Court in ***Bijnor Urban Cooperative Bank (supra)*** to submit that the grant of an OTS is subject to the applicable terms and eligibility criteria and the commercial decision of a bank in relation to recovery of its dues cannot be substituted by a judicial direction requiring it to grant or continue the benefit of a settlement.

6.5 A consent decree cannot be modified/altered unless there exists a patent or obvious mistake or an allegation either of fraud or misrepresentation has been made and in support of the said submission, reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***Ajanta LLP v. Casio Keisanki Kabushiki Kaisha & Anr.***, reported in ***(2022) 5 SCC 449***;

6.6 As the order dated 23.05.2023 was passed by DRT in excess of its jurisdiction, the writ petition was rightly filed as although an alternative statutory remedy ordinarily operates as a restraint on the exercise of writ jurisdiction, a writ petition can be entertained where the Tribunal has acted beyond its jurisdiction, which is certainly the case herein as the DRT has substantially altered a consent order and has extended the time period which had already expired long back. In support of the said submission, reliance has been placed upon the judgement of the Hon'ble Supreme Court in ***Assistant Commissioner of State Tax & Ors v. Commercial Steel Ltd.***, reported in ***(2022) 16 SCC 447***, to submit that the rule of alternative remedy does not bar the exercise of writ jurisdiction in exceptional circumstances, including where the authority has acted without jurisdiction;

6.7 The respondent-Bank cannot be said to have waived its right to question the DRT's jurisdiction by participating in

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proceedings relating to the sale of mortgaged properties or by accepting the sale proceeds, as those actions were undertaken in the course of recovery proceedings and does not prevent respondent-Bank from challenging the order dated 23.05.2023;

6.8 The respondent – Bank was always keen and willing to perform its obligations and solely because the respondent No.2 – borrower company failed to pay the outstanding amount, it is shifting its burden upon the respondent – Bank and the learned Single Judge has rightly set aside the order dated 23.05.2023;

6.9 Taking the defence that the M.A was filed in terms of the directions issued by this Court vide order dated 12.10.2018 is as misconceived as it could be, as the writ petition filed by the appellant and the respondent No.2 – borrower company was dismissed and merely leave was granted, which under no circumstances can be read as any directions being issued;

6.10 The appellant lacks locus to maintain the present appeal as the respondent No.2 – borrower company, of which he is a suspended Director, is under CIRP and thus, he is not capable and entitled to represent it.

7. Thus, learned counsel for the respondent-Bank prays that the special appeal be dismissed and the order dated 29.08.2025 passed by the learned Single Judge be affirmed.

DISCUSSION AND FINDINGS:

8. Heard learned counsel for the parties and perused the material available on record.

9. The principal issue arising for consideration in the present appeal is whether the learned Single Judge was justified in setting aside the order dated 23.05.2023 vide which the DRT had altered/amended a consent decree, that too after imputing fault upon the respondent – Bank and granting respondent No. 2– borrower company a further period of twelve months to pay the outstanding amount under the OTS, thereby extending the time period agreed in the OTS, which already stood expired way back on 30.06.2018.

10. The above issue and so also the submissions advanced by the rival parties, are being dealt with accordingly:-

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I. Jurisdiction of the DRT under Sections 19(25) and 22(2)(e) of the Act of 1993 *vis-a-vis* scope of interference in a consent order/consent recovery certificate/OTS.

11. In order to deal with the present issue, it would be apposite to refer to Section 19(25) which reads as under:

> *"**19. Application to the Tribunal***
>
> *(1) ...*
>
> *(2) ...*
>
> *...*
>
> ***(25)** The Tribunal may make such orders and give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice."*

12. The primary submission of learned Senior counsel for the appellant is that the DRT was within its jurisdiction in entertaining the said M.A which was filed by the appellant and respondent No. 2–borrower company seeking several directions and consequential amendments/modifications in the amended consent recovery certificate dated 30.03.2016, as the provisions of Section 19(25) of the Act of 1993 empower the Tribunal to pass orders for preventing abuse of process of law, to secure the ends of justice or to give effect to its orders, and the said aspect has not been considered by the learned Single Judge in the right perspective.

13. However, it is a trite law that an application under Section 19(25) of the Act of 1993 cannot be employed to confer upon the Tribunal a power which is not otherwise vested in it by the statute. The powers conferred upon the Tribunal under Section 19(25) of the Act of 1993, cannot be construed as conferring an unfettered power to rewrite the terms of a concluded settlement or grant any substantive relief contrary thereto. Any order passed in excess of such jurisdiction cannot be sustained merely on the ground that it is intended to secure the ends of justice.

14. In ***Dharminder Bhohi (supra)***, the Hon'ble Supreme Court held that the Tribunal is required to function within the statutory parameters and that Section 19(25) of the Act of 1993 confers limited powers which cannot be invoked to confer jurisdiction or

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powers not vested in the Tribunal by the legislature. The relevant paragraphs of the judgment read as under:

> ***"33.*** *Section 19 of the RDB Act, occurring in Chapter IV of the Act, deals with procedure of tribunals. Sub-section (25) of Section 19 reads as follows:*
>
> > *"**19. (25)** The Tribunal may make such orders and give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice."*
>
> *The aforesaid provision makes it quite clear that the Tribunal has been given power under the statute to pass such other orders and give such directions to give effect to its orders or to prevent abuse of its process or to secure the ends of justice. Thus, the Tribunal is required to function within the statutory parameters. The Tribunal does not have any inherent powers and it is limpid that Section 19(25) confers limited powers."*

15. Further, Section 22(2)(e) of the Act of 1993 reads as under:

> ***"22. Procedure and powers of the Tribunal and the Appellate Tribunal***
> ***(2)*** *The Tribunal and the Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:*
> *(a) ...*
> *(b) ...*
> *(c) ...*
> *(d) ...*
> ***(e) reviewing its decisions****"*

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16. It has been further argued by learned Senior counsel for the appellant that the learned Single Judge has erred by not considering the provision of Section 22(2)(e) of the Act of 1993, which provides the power of review to the DRT and even if M.A No. 81/2018 dated 25.10.2018 was not filed under Section 22(2)(e) and no prayer for review was explicitly sought, the learned Single Judge ought to have considered the said provision to hold that the order dated 23.05.2023 was rightly passed.

To substantiate the maintainability of M.A, it has also been submitted that the said M.A was filed in terms of the leave granted by this Court vide order dated 12.10.2018 passed at Principal Seat, Jodhpur, in S.B. Civil Writ Petition No. 15514/2018.

17. The said submissions are noted to be rejected for the very simple reason that, firstly, the said M.A was not filed invoking the provisions of Section 22(2)(e); secondly, no prayer seeking review of the consent orders dated 28.01.2016 and 30.03.2016 was sought; and, thirdly, no submissions were advanced to demonstrate, much less establish, that there existed any error apparent on the face of the record, which is *sine qua non* for exercising the power under Section 22(2)(e) of the Act of 1993 read with Rule 5A of the Rules of 1993. Thus, sans any error/mistake apparent on the face of the record, no prayer for review can be entertained and accordingly, the submission of learned Senior counsel for the appellant to consider the M.A as a review application is also rejected.

18. Further, the order dated 12.10.2018 passed at Principal Seat, Jodhpur, directing the appellant to approach the DRT "in accordance with law", cannot be read as conferring any additional jurisdiction upon the Tribunal which the statute does not vest in it. The direction left the parties to pursue such remedies as were available to them in law and it did not authorise the DRT to modify the consent order or to grant relief beyond its statutory powers.

19. Similarly, perusal of the facts stated in the M.A reveals that the basis for filing of the same was the alleged inaction and non-compliance of terms of the OTS by the respondent-Bank. Even if for the sake of argument, the submissions of learned Senior

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counsel for the appellant are considered, then also the same would not fall within the scope of and contours of Section 19(25) of the Act of 1993 as the order dated 23.05.2023 alters/amends a consent order and a consent recovery certificate and any such alteration/amendment in a consent order or consent recovery certificate can only be done either by the consent of both the parties or by firstly recalling the said consent order and then adjudicating the same on its merits. A consent order cannot be altered/amended by approving the allegations levelled by one of the parties and rejecting the contentions raised by the other. Passing of any such order by invoking the provisions of Section 19(25) of the Act of 1993 cannot be considered as having been passed for preventing abuse of process of law or to secure the ends of justice or to give effect to its orders.

II. Alteration/Modification of a Consent Order vis-à-vis Novation of contract

20. It is not in dispute that pursuant to the OTS sanctioned vide letter dated 24.12.2015, the DRT passed a consent order and issued a consent recovery certificate on 28.01.2016, which was subsequently amended on 30.03.2016. The settlement terms including the period for payment of the agreed amount, thus, formed part of the consent arrangement and order recorded by the DRT.

21. Once the parties had agreed to the terms and the same had been recorded by the DRT, the concluded arrangement could not ordinarily be reopened or substantively modified at the instance of one party through a subsequent miscellaneous application, more so in absence of a legally sustainable ground and statutory authority for exercise of such a power.

22. The nature of an OTS assumes significance. A one-time settlement is founded upon specific terms and a stipulated timeline, in consideration of which the creditor agrees to accept an amount in settlement of its outstanding dues. The time stipulated for payment is therefore an essential feature of such an arrangement.

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RAJASTHAN HIGH COURT सत्यमेव जयते

23. The significant amendment/alteration in the consent order and consent recovery certificate is that the period for payment of the amount as agreed in the consent order and consent recovery certificate dated 28.01.2016 and the amended consent order and amended consent recovery certificate dated 30.03.2016 being 31.03.2018, as extended upto 30.06.2018, has been extended for a further period of twelve months from 23.05.2023 upto 23.05.2024.

Rajasthan High Court सत्यमेव जयते Web Copy - Not Official

A tabular chart demonstrating the relevant timelines is as under:

Sr.No.	Event	Date
1.	As per consent order and consent recovery certificate dated 28.01.2016, more particularly its condition No.11	Compromise was valid upto 31.03.2018
2.	As per amended consent order and amended consent recovery certificate dated 30.03.2016, more particularly its condition No.11	Compromise was valid upto 31.03.2018
3.	On request of the borrower, as finds mention in letter of the respondent-Bank dated 01.09.2018 (Annexure-10 to the writ petition)	30.06.2018
4.	As per order passed by the DRT dated 23.05.2023, amending/altering the amended consent recovery certificate	Further twelve months from the date of order, which extends the period upto 23.05.2024

Thus, the OTS which was effective up to 30.06.2018 was extended by the DRT upto 23.05.2024. The powers conferred upon the DRT being limited in nature, could not have been exercised to grant a substantive extension of the repayment period stipulated under the concluded OTS and incorporated in the consent order and consent recovery certificate. It is also relevant to note that a period which already stood expired cannot be extended.

24. Upon expiry of the stipulated period including the extension granted by the respondent-Bank up to 30.06.2018, the borrower

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could not claim a further extension as a matter of right. Any further extension required a basis in the terms of the settlement or the consent of the parties, unless such relief was otherwise authorised by law. In the present case, despite the extension granted by the respondent-Bank, the borrower failed to complete payment within the extended period. The order dated 23.05.2023 did not merely facilitate compliance with an existing payment schedule, it granted a fresh period of twelve months, thereby materially altering the repayment timeline under the concluded OTS. In the absence of the respondent-Bank's consent or an independent statutory basis for compelling such an extension, the DRT could not impose a fresh repayment schedule upon the respondent-Bank merely because additional time might facilitate recovery of the outstanding amount. Learned Single Judge after considering the said aspect has rightly set aside the order passed by DRT.

25. In ***Arvindra Electronics (supra)***, the Hon'ble Supreme Court dealt with the issue of granting further time for payment under an OTS after expiry of the agreed period. The relevant paragraph(s) of the judgment reads as under:-

> **"22.** *Even otherwise as rightly submitted on behalf of the Bank directing the Bank to reschedule the payment under OTS would tantamount to modification of the contract which can be done by mutual consent under Section 62 of the Contract Act. By the impugned judgment and order rescheduling the payment under the OTS Scheme and granting extension of time would tantamount to rewriting the contract which is not permissible while exercising the powers under Article 226 of the Constitution of India."*

26. Further, in ***Bijnor Urban Cooperative Bank (supra)***, the Hon'ble Supreme Court reiterated that a borrower cannot claim an OTS as a matter of right and that a Court cannot ordinarily direct a Bank to grant an OTS. The relevant paragraph(s) of the judgment read as under:-

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*"**14.** The sum and substance of the aforesaid discussion would be that no writ of mandamus can be issued by the High Court in exercise of powers under Article 226 of the Constitution of India, directing a financial institution/bank to positively grant the benefit of OTS to a borrower. The grant of benefit under the OTS is always subject to the eligibility criteria mentioned under the OTS scheme and the guidelines issued from time-to-time. If the bank/financial institution is of the opinion that the loanee has the capacity to make the payment and/or that the bank/financial institution is able to recover the entire loan amount even by auctioning the mortgaged property/secured property, either from the loanee and/or guarantor, the bank would be justified in refusing to grant the benefit under the OTS scheme. Ultimately, such a decision should be left to the commercial wisdom of the bank whose amount is involved and it is always to be presumed that the financial institution/bank shall take a prudent decision whether to grant the benefit or not under the OTS scheme, having regard to the public interest involved and having regard to the factors which are narrated hereinabove.*

***15.** In view of the aforesaid discussion and for the reasons stated above, we are of the firm opinion that the High Court, in the present case, has materially erred and has exceeded in its jurisdiction in issuing a writ of mandamus in exercise of its powers under Article 226 of the Constitution of India by directing the appellant Bank to positively consider/grant the benefit of OTS to the original writ petitioner. The impugned judgment and order [Meenal Agarwal v. State of U.P., 2021 SCC OnLine All 989] passed by the High Court is hence unsustainable and deserves to be quashed and set aside and is accordingly quashed and set aside."*

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27. Also, Hon'ble Supreme Court in ***Dayal Singh (supra)*** has held that a concluded contract cannot be novated or modified without the agreement of both the parties.

28. Reliance is also placed on the judgment passed by the Hon'ble Supreme Court in the case of ***Manjunath Tirakappa Malagi and Another Versus Gurusiddappa Tirakappa Malagi (Dead through Lrs)*** reported in ***2025 SCC OnLine SC 835***, wherein it has been held that the only remedy available against a consent decree is to file a recall application before the Court which passed the consent decree.

29. Thus, a consent order passed in pursuance of an OTS arrived at between the parties cannot be modified/amended without the consent of the parties to it or in case of a dispute, by recalling the original consent order, if so warranted and hearing the parties afresh. Any other procedure would be in defiance of the provisions of Order XXIII Rule 3 of the Code of Civil Procedure, 1908, and Section 62 of the Indian Contract Act, 1872.

30. The reliance placed by the appellants upon the judgments in ***Rangnath Haridas (supra)*** and ***Smt. Periyakkal (supra)***, does not assist the appellants in the facts of the present case. The proposition of law laid down by the Hon'ble Supreme Court in the said judgments will certainly not apply to the case in hand, as the facts of the present case are clearly distinguishable. None of the cases relied upon by the appellant pertains to a controversy wherein an amended consent recovery certificate has been modified by the DRT by exceeding its jurisdiction.

III. Acquiescence/Waiver by Respondent- Bank

31. Once the respondent – Bank vide its communications dated 01.09.2018, 06.09.2018 and 18.09.2018 had informed respondent No. 2 - U.N. Automobiles Private Limited- borrower company that the OTS stood frustrated on account of its failure to comply with its terms of the OTS of making complete payment of the due amount within the stipulated period, its participation in proceedings relating to the sale of mortgaged properties or acceptance of the sale proceeds, such actions being undertaken in the course of recovery proceedings, cannot amount to waiver or

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acquiescence on its part. Thus, the said ground raised by the appellant deserves to be rejected.

IV. Alternative Remedy and Maintainability of the Writ Petition

32. Learned Senior Counsel for the appellant has submitted that the respondent – Bank had the statutory remedy of filing an appeal against the DRT's order before the Debt Recovery Appellate Tribunal, but instead it invoked the writ jurisdiction of this Court and hence, the writ petition ought not to have been entertained by the learned Single Judge.

33. The respondent-Bank, on the other hand, has submitted that although an alternative statutory remedy ordinarily operates as a restraint on the exercise of writ jurisdiction, a writ petition may be entertained where the Tribunal has acted beyond its jurisdiction.

In support of the said submission, reliance has been placed upon the judgment passed by the Hon'ble Supreme Court in ***Commercial Steel Ltd. (supra)*** and ***PHR Invent Educational Society Vs. UCO Bank and Ors.*** reported in **(*2024) 6 SCC 579***, to submit that the rule of alternative remedy does not bar the exercise of writ jurisdiction in exceptional circumstances, including where the authority has acted beyond jurisdiction.

34. It is well settled that the existence of an alternative statutory remedy does not by itself bar the exercise of jurisdiction under Article 226 of the Constitution of India. However, such jurisdiction is ordinarily exercised with restraint where an efficacious statutory remedy is available. It has been consistently reiterated by the Hon'ble Supreme Court that a writ petition may be entertained in exceptional circumstances, including where the authority has acted in excess of its jurisdiction. The existence of such an exception, however, must be assessed in the facts and circumstances of each case and does not dispense with the need for the Court to exercise its discretion judiciously.

35. Having regard to the order passed by the DRT dated 23.05.2023, whereby it has substantially altered/modified a consent order, resulting into significant alteration in the timelines for honouring the OTS of which time was of the essence, it is

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manifest that the said order has been passed by travelling beyond its jurisdiction and thus, the learned Single Judge was very much justified in entertaining the writ petition and thus, we find no reason to interfere in the judgment of the learned Single Judge.

36. Accordingly, the objection raised by the appellant assailing the maintainability of the writ petition on the ground of availability of an alternative remedy is rejected.

V. Locus Standi of the Appellant

37. The respondent-Bank has disputed the locus of the appellant on the ground that respondent No. 2 - U.N. Automobiles Private Limited- borrower company is under CIRP and the appellant is the suspended director of the respondent No. 2 – borrower company and thus, has no authority to file the present appeal.

38. In this regard, it is relevant to note that upon an application being filed by the respondent – Bank under Section 7 of the IBC, 2016, NCLT, Jaipur, vide order dated 28.08.2024, admitted the application and initiated the CIRP against respondent No. 2– borrower company and an Interim Resolution Professional was appointed. Further, in terms of Sections 17 and 19 of the IBC, 2016, the powers of the promoters and Board of Directors of the company stood suspended and the management vested with the Interim Resolution Professional. Not only this, as per the written submissions submitted by the appellant himself, a resolution plan to the tune of approximately ₹31 crore had also been submitted by a resolution applicant.

39. As the NCLT, Jaipur, directed the appointment of another Resolution Professional, the learned NCLAT, Delhi, vide its interim order dated 07.10.2025, permitted the new Resolution Professional to receive claims, but directed that no further steps be taken.

40. Despite the above undisputed factual aspect, nothing has been submitted to substantiate the right and authority of the appellant to file and maintain the present appeal, who is currently a suspended Director. Thus, for this reason as well, no interference is warranted in the order passed by the learned Single Judge and the present appeal deserves to fail.

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VI. Scope of adjudication in an Intra-Court Appeal

41. At the stage, it is relevant to note that the present appeal is an intra court appeal filed against the judgment passed by the learned Single Judge and thus, while exercising the jurisdiction that can be exercised by an intra court appellate Bench of a High Court, this court is duly guided by the principles laid down by the Hon'ble Supreme Court in the case of ***Bihar Industrial Area Development Authority and Others versus Scope Sales Pvt. Ltd. and Another*** dated 23.01.2026 reported in ***2026 SCC OnLine SC 112,*** which reads as under:-

> "***13.*** *We must also bear in mind the nature and extent of jurisdiction that an intra-court appellate Bench of a high court exercise. Such appellate jurisdiction is conferred either under the Letters Patent or by the relevant statutory provisions. It is pertinent to note that both - Single Bench and Division Bench - exercise the same jurisdiction under Article 226 of the Constitution.* ***In our view, the exercise of intra-court appellate jurisdiction is warranted only where the judgment or order under challenge is demonstrably erroneous or suffers from perversity. Such jurisdiction ought not to be invoked merely because another view is possible on the same set of facts, particularly where the view adopted by the Single Judge is a plausible and reasonable one. In other words, an intra-court appellate Bench ought not to substitute its own view, merely because such Bench considers its view to be better than the one taken by the Single Bench; so long as the view taken by the Single Bench is a plausible one, interference should stay at a distance.***
>
> ***14.*** *We find it profitable to refer to certain precedents, relevant paragraphs wherefrom are reproduced below:*
>
> ***14.1*** *In Baddula Lakshmaiah v. Sri Anjaneya Swami Temple [(1996) 3 SCC 52], it was held:*
>
> > *2. Mr Ram Kumar, learned counsel for the appellants, inter alia contends that the Letters Patent Bench of the High Court could not have upset a finding of fact recorded by a learned Single Judge on fresh reconciliation of the two documents, arriving at different results than those arrived at earlier by the two courts aforementioned. Though the argument sounds attractive, it does not bear scrutiny. Against the orders of the trial court, first appeal lay before the High Court, both on facts as well as law. It is the internal working of the High Court which splits it*

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> *into different 'Benches' and yet the court remains one. A letters patent appeal, as permitted under the Letters Patent, is normally an intra-court appeal whereunder the Letters Patent Bench, sitting as a Court of Correction, corrects its own orders in exercise of the same jurisdiction as was vested in the Single Bench. Such is not an appeal against an order of a subordinate court. In such appellate jurisdiction the High Court exercises the powers of a Court of Error. So understood, the appellate power under the Letters Patent is quite distinct, in contrast to what is ordinarily understood in procedural language. That apart the construction of the aforementioned two documents involved, in the very nature of their import, a mixed question of law and fact, well within the powers of the Letters Patent Bench to decide. The Bench was not powerless in that regard.*
>
> *(emphasis ours)*

14.2 *This Court in Narendra & Co. (P) Ltd. v. Workmen [(2016) 3 SCC 340] noted that:*

> *5. … Be that as it may, in an intra-court appeal, on a finding of fact, unless the Appellate Bench reaches a conclusion that the finding of the Single Bench is perverse, it shall not disturb the same. Merely because another view or a better view is possible, there should be no interference with or disturbance of the order passed by the Single Judge, unless both sides agree for a fairer approach on relief.*

14.3 *On whether a remand could be ordered in exercise of intra-court appellate jurisdiction, this Court in Roma Sonkar v. M.P. State Public Service Commission [(2018) 17 SCC 106] expressed reservations in the following words:*

> *3. We have very serious reservations whether the Division Bench in an intra-court appeal could have remitted a writ petition in the matter of moulding the relief. It is the exercise of jurisdiction of the High Court under Article 226 of the Constitution of India. The learned Single Judge as well as the Division Bench exercised the same jurisdiction. Only to avoid inconvenience to the litigants, another tier of screening by the Division Bench is provided in terms of the power of the High Court but that does not mean that the Single Judge is subordinate to the Division Bench. Being a writ proceeding, the Division Bench was called upon, in the intra-court appeal, primarily and mostly to consider the correctness or otherwise of the view taken by the learned Single Judge. Hence, in our view, the Division Bench needs to consider the appeal(s) on merits*

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by deciding on the correctness of the judgment of the learned Single Judge, instead of remitting the matter to the learned Single Judge.

14.4 *In AAI v. Pradip Kumar Banerjee [(2025) 4 SCC 111], while referring to its decision in Narendra (supra), this Court observed as follows:*

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41. The position is, thus, settled that in an intra-court writ appeal, the appellate court must restrain itself and the interference into the judgment passed by the learned Single Judge is permissible only if the judgment of the learned Single Judge is perverse or suffers from an error apparent in law. However, the Division Bench, in the present case, failed to record any such finding and rather, proceeded to delve into extensive reappreciation of evidence to overturn the judgment of the learned Single Judge.

(emphasis ours)"

42. Reliance in this regard is also placed on the principles laid down by the Hon'ble Supreme Court very recently in the case of ***R. Saravanan versus Periyar University*** dated 16.10.2026 reported in ***2026 SCC OnLine SC 2202***, wherein it has been held as under:-

"28. However, the jurisdiction of the Letters Patent Bench to interfere with the concurrent findings of fact should not be understood as if the Letters Patent Bench can interfere in every matter because it is exercising the powers of the appellate Court. The jurisdiction of the Letters Patent Bench to examine a question of fact is not without fetters. The Letters Patent Bench can be justified in reopening a question of fact if it necessarily touches upon the merits of the case and is likely to have a bearing on the decision in the case. It may be argued that the Letters Patent Bench of the High Court is entitled to review findings of fact. But what is necessary to keep in mind is that there is an inherent limitation on exercise of powers by the appellate Bench. This is one of the well settled legal principles that the appellate Court should not interfere with the judgment of the Court of first instance unless a clear mistake which will change the outcome of the case is found to have been committed by the Court. The

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RAJASTHAN HIGH COURT सत्यमेव जयते

Letters Patent Bench should ordinarily be slow and refrain from interfering with the discretion exercised by the writ Court under Article 226 of the Constitution. A Letters Patent Bench sitting as a Court of Correction exercises the same jurisdiction as is vested in the Single Judge but the Letters Patent Bench is required to give due weight to the decision of the writ Court where it has exercised its discretion on relevant considerations.

Rajasthan High Court सत्यमेव जयते Web Copy - Not Official

29. There may be different situations and the aggrieved party may raise a host of grounds before the Letters Patent Bench. Some of the grounds may be based on a question of law and the other may be just a question of fact. The aggrieved party may also raise issues pertaining to appreciation of evidence. ***But the Letters Patent Bench can interfere in the matter only where the findings are demonstrably erroneous and the mistake is glaring on the face of record.*** *There must exist cogent grounds and such grounds are not projected on some minor mistake in the judgment under challenge. The Letters Patent Bench is not entitled to interfere with the decision of writ Court on mere showing of some error of fact or in law.* ***If the decision rendered by the writ Court in exercise of the powers under Article 226 of the Constitution is in furtherance of justice, equity and good conscience and is not against public policy then the Letters Patent Bench constituted under Clause 15 of the Letters Patent of Madras High Court or similar provisions of the Letters Patent of other High Courts cannot exercise its appellate jurisdiction under the Letters Patent to interfere with the writ Court's decision.*** *Simply put, the Letters Patent Bench can not interfere with the decision rendered by the writ Court which is otherwise just and reasonable."*

43. Applying the aforesaid principles to the facts of the present case, we find that the learned Single Judge had examined the order dated 23.05.2023 passed by the DRT, the terms of the concluded OTS, the extension of time granted by the respondent-Bank and the statutory limits of the Tribunal's powers and only thereafter has concluded that the DRT had exceeded its jurisdiction by granting a further period of twelve months for repayment despite the absence of the respondent-Bank's consent.

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The said judgment has been passed very much in furtherance of justice, equity and good conscience.

CONCLUSION:

44. In view of the discussion and findings recorded hereinabove, we find no demonstrable error or perversity in the judgment passed by the learned Single Judge warranting interference in the present intra-court appeal. The appellant has failed to establish any ground that would justify reversal of the impugned judgment.

45. Consequently, the special appeal is **dismissed**. The judgment dated 29.08.2025 passed by the learned Single Judge is affirmed.

46. Pending application(s), if any, also stand disposed of.

(ANUROOP SINGHI),J **(ARUN MONGA),J**

JAYANT KUMAR /--

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