PREFACE

The health of any economy is evident from the health of Banking Industry. The banking Industry is so much vibrant, that any minor development in the economy would reflect upon the banking. The health of banking is also very much essential for the stability of the economy. We can see for the stability of the economy. We can see from the history that the economic depression and crisis have also been characterized with the failure of the banks.

Banking was in vogue in India since time immemorial. The banking in India was mainly centered on the indigenous money lenders, who were all out to exploit the poor. The impact of Islamic rule has for some time changed the situation. The British rule has helped the banking to crystallize into institutions. With the establishment of Presidency Banks, the imperial banks and other joint stock banks the banking in India has entered into a new era. However, even now the lion share of India’s rural masses are not free from the clutches of the local money lenders and indigenous bankers. The Reserve Bank of India as well as the Government of India are trying their level best to spread the net of banking to cover the rural lot to uphold the principles of social banking, we have a long way to go.

The banks in India, unlike its counterparts in other countries have to undertake the social cause also. The special schemes for the welfare of the formers weaker sections etc. have been taken up by the banks, without having any concern for its profitability. The new economic policy and consequent liberalization of economy have accelerated the pace of bank lending and the bank lending has increased many folds.
With the introduction of the prudential norms of income recognition, it was realized that many of the loans advanced by these banks had been proved to be unrecoverable and to be categorized as bad debts. The Banking Industry has realized that it is weighed down by enormous amounts of bad debts that threaten the very health of the system. The public sector banks are worst affected followed by old generation private sector banks.

The bad loan popularly known as the Non Performing Assets (NPAs) is a fairly high proportion of total loans. The recovery of the Non Performing Assets has been given thrust by the banks since nineties and it has found its results also. It is greatly on account of the shift from the conventional practice of litigation to the new methods of recovery. The new look at the problem of identifying and containing the NPA has provided an opportunity to have a critical evolution of the existing machinery of recovery and to realize that a significant portion of their funds are locked up in litigation. The effect is that not only the funds are locked up in unproductive assets, but also their value gets deteriorated with passage of time. An urgent need was felt to work out a suitable mechanism through which the dues could be realized without much delay. The Narasimham Committee has addressed all those issues and submitted its two reports. The first report of the committee itself laid emphasize upon establishing a separate forum to deal with the cases of recovery of dues towards Banks and Financial Institutions.

Whether the reforms that have changed the face of banking industry consequent to the recommendation of Narsimham committee could successfully serve the purpose of NPA recovery? Whether the two mechanism as envisaged under the Recovery of Debt due to Banks and Financial Institutions Act, 1993 and the Securitization Asset Reconstruction And Enforcement of Security Interest Act 2002 has been
capable of meeting the Industry aspirations? Is it possible to make use of the existing system in a better and effective way? These questions are to be examined critically. The preparation of this thesis is an earnest and humble attempt towards this direction within the limitation of the available data and my ability.

As a person who has been directly associated with the N.P.A. recovery in the capacity of an in house lawyer for banks as well as a practicing lawyer, I have special interest in this subject. The subject as such was always live in my mind. When I discussed the topic with my guide Dr.M.L.Maurya, he encouraged me and also suggested some improvements in my original approach towards the subject.

In the preparation of this thesis I have referred to many authorities’ textbooks, journals websites, consulted eminent personalities in the field of Law, Banking and academic and also conducted a field survey. Many of my friends and well wishes have helped me in this endeavor. I am deeply indebted to each one of them. It is not possible to name each of them to express any gratitude. However, I cannot avoid mentioning the names of those who have significantly contributed to the success of this project.

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My wife, Dr. Bindu Variath who has also a former faculty in the Institute of law in this University deserve special mention for planting the idea of doing research in my mind and for all the pain taken to see that the idea materializes into a full fledged thesis.

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