

Case Snippets

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BABULAL VARDHARJI GURJAR VS. VEER GURJAR ALUMINIUM INDUSTRIES PVT. LTD. & ANR.

**[CIVIL APPEAL NO. 6347 OF 2019 , Supreme Court
,dated 14th August 2020]**

FACTS: _

On 22.12.2007, the lender banks viz., Corporation Bank, Indian Overseas Bank and Bank of India sanctioned and extended various loans, advances and facilities to the corporate debtor. The corporate debtor executed various security documents in favour of the lender banks in the years 2008 and 2009, including those of equitable mortgage against the facilities so obtained. The Corporation Bank proceeded to rephrase/enhance the facilities to the corporate debtor from time to time and lastly on 27.08.2010 where for, various additional security documents were executed by the corporate debtor.

The corporate debtor having defaulted in payment of the amount due against such loans, advances and facilities, its account with Corporation Bank was classified as Non-Performing Asset on 08.07.2011 and that with Indian Overseas Bank was classified as NPA on 05.08.2011.



Issue Involved :-

Whether the application made by respondent under Section 7 of the Code is within limitation ?

Supreme Court held as follow:-

The application made by the respondent No. 2 under Section 7 of the Code in the month of March 2018, seeking initiation of CIRP in respect of the corporate debtor with specific assertion of the date of default as 08.07.2011, is clearly barred by limitation for having been filed much later than the period of three years from the date of default as stated in the application. In the interest of justice, we also make it clear that the observations in this judgment are relevant only in regard to the issue determined that the application under Section 7 of the Code is barred by limitation and not beyond. In other words, nothing in this judgment shall have bearing on any other proceeding that shall be dealt with on its own merits and in accordance with law.

Appeal allowed.

