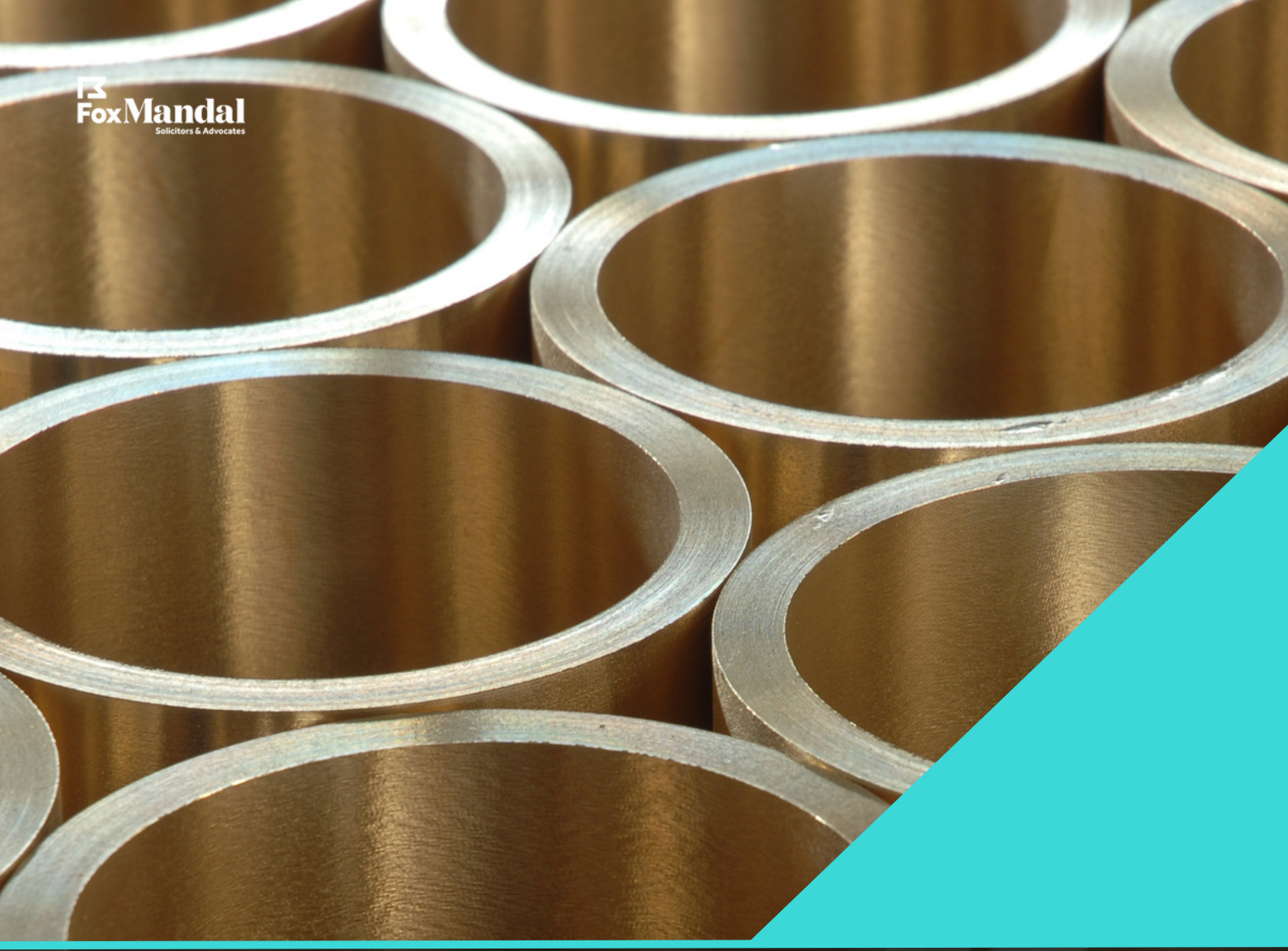


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INFORM: Infrastructure Projects & Finance

DECEMBER 2023

We bring you the latest updates on the dynamic intersection of infrastructure projects with banking and finance. Join us to navigate the evolving landscape of infrastructure curated to empower you with strategic intelligence.

>>> HIGHLIGHTS

NOTIFICATIONS/CIRCULARS:

1. NHAI Accepts Insurance Surety Bond as Bid Security
2. Regulatory Measures Imposed on Consumer Credit and Bank Credit to NBFCs
3. RBI Releases New Guidelines for Banks and NBFCs on IT Governance and Cybersecurity

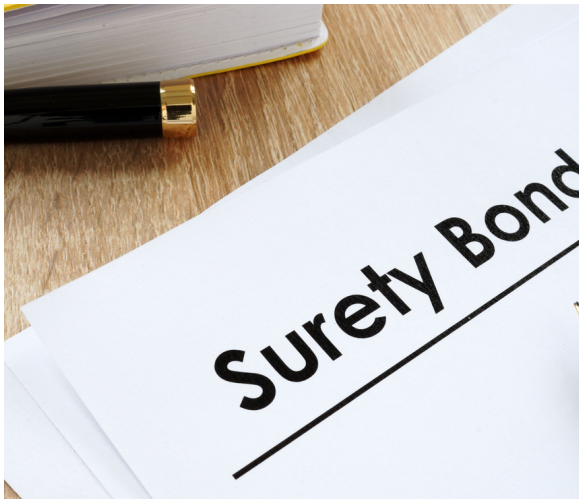
CASE LAWS:

1. Pecuniary Limit of DRT Applicable to Applications Under Section 13(10) of SARFAESI Act
2. Court Cannot Intervene in Borrowing Arrangements Unless Compelling Reasons
3. Voluntarily Signed Blank Cheque Does Not Invalidate Presumption Under Section 139 of NIA
4. Removal Of Illegal Encroachments Can Be Done Without Notice
5. Document Not Subject to Stamp Duty May be Admitted as Secondary Evidence

QUICK READS:

1. NHAI Revises Guidelines to Control Cost Escalations and Speed Up Land Acquisition for Road Infrastructure
2. NHAI Identifies 19 Projects Eligible for Private Revival
3. RBI Set to Revamp Framework, Potential Hike in Penal Amounts

>>> NOTIFICATIONS/CIRCULARS



NHAI Accepts Insurance Surety Bond as Bid Security

The National Highways Authority of India (NHAI) has for the first-time accepted Insurance Surety Bond as a Bank Guarantee (BG) for a road infrastructure project. The bond has been issued for the monetization bid of Toll Operate Transfer (TOT) Bundle 14 @25% by the insurer without any margin money.

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Regulatory Measures Imposed on Consumer Credit and Bank Credit to NBFCs

The RBI has recommended that banks and NBFCs improve their internal surveillance systems, mitigate any potential risks, and establish suitable safeguards for their own advantage. Hence, RBI vide circular dated 16 November, 2023 bearing reference number RBI/2023-24/85 DOR.STR.REC.57/21.06.001/2023-24 has issued certain directions.

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RBI Releases New Guidelines for Banks and NBFCs on IT Governance and Cybersecurity

The Reserve Bank of India (RBI) released a comprehensive set of guidelines pertaining to Information Technology Governance, Risk, Controls and Assurance Practices vide circular bearing reference number RBI/DoS/2023-24/107 DoS.CO.CSITEG/SEC.7/31.01.015/2023-24 dated 7 November, 2023.

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>>> QUICK READS



NHAI Revises Guidelines to Control Cost Escalations and Speed Up Land Acquisition for Road Infrastructure

These guidelines aim to facilitate the expeditious approval process for land acquisition while mitigating the potential for unjustified increases in land costs or fraudulent attempts to manipulate land values to obtain greater compensation.

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NHAI Identifies 19 Projects Eligible for Private Revival

The NHAI has identified 19 projects requiring a total investment of about Rs 56,000 crore. These projects will be offered in the build-operate-transfer (BOT) toll mode, with the aim of revitalizing private participation in the development of roads and highways throughout the country.



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RBI Set to Revamp Framework, Potential Hike in Penal Amounts

The RBI is currently contemplating a thorough evaluation of its penalty framework. It is a follow-up to RBI Governor Shaktikanta Das' meeting with the boards of state-run and private banks on "issues related to governance, ethics, the role of boards, and supervisory expectations" held of 29 May, 2023.

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>>> CASE LAWS



Pecuniary Limit of DRT Applicable to Applications Under Section 13(10) of SARFAESI Act

The Delhi High Court, in the case of IDFC First Bank Limited v. Union of India and Ors. [2023 DHC 7924 DB] held that an application by a secured creditor for the recovery of the balance amount payable by a borrower under Section 13(10) of the SARFAESI Act, 2002) is an original application under Section 19(1) of the RDB Act, 1993 and therefore the pecuniary limit under the RDB Act, 1993, would apply.

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Court Cannot Intervene in Borrowing Arrangements Unless Compelling Reasons

The Kerala High Court, in the case of Binoy Paulose v. Union of India [2023 LiveLaw (Ker) 628], held that the court in exercise of its powers of writ jurisdiction under Article 226 cannot replace the wisdom and decisions of the Lender/Banker with respect to any borrowing arrangements, unless there are compelling reasons, like statutory violations, for the court to intervene.

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Voluntarily Signed Blank Cheque Does Not Invalidate Presumption Under Section 139 of NIA

The High Court of Kerala, in P.K. Uthuppu Vs. N.J. Varghese and Ors. [2023/KER/68691], held that a blank cheque that has been voluntarily signed and issued towards the discharge of a debt does not invalidate the presumption under Section 139 of the Negotiable Instruments Act, 1881.

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Removal Of Illegal Encroachments Can Be Done Without Notice

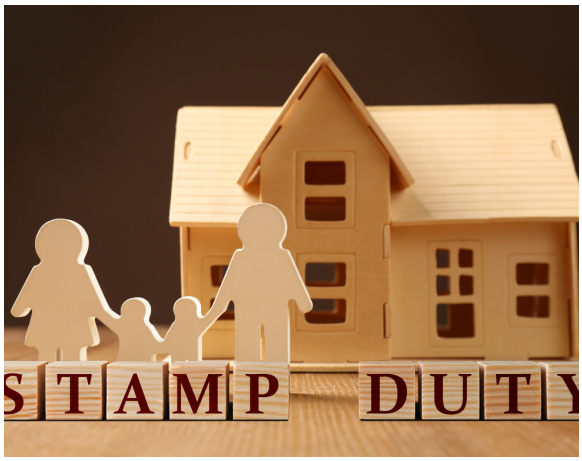
The Kerala High Court, in the case of Ananthapuri Hospitals & Research Institute v. Corporation of Thiruvananthapuram [2023 KER 69565], held that illegal encroachments on road margins that obstruct or cause hindrance to traffic or street users may be removed without notice.

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Document Not Subject to Stamp Duty May be Admitted as Secondary Evidence

The Hon'ble Supreme Court, in Vijay v. Union of India [2023 INSC 1030], held that since the document was not subject to duty, it was not necessary to have a stamp, and so no penalty could be imposed for its lack of proper stamping. Further, since the document in question was not subject to stamp duty at the time it was executed, they may be admissible as evidence.

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