IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

C.R.P.NO.798 OF 2021
AND
C.M.P.NO.6682 OF 2021

Dr.M.Ashraf Ali .. Petitioner

-vs-

The Authorized Officer,
GIC Housing Finance Ltd.,
Khivraj Complex-2, 2nd Floor,
No.480, Anna Salai,
Opp. Nandanam Arts College,
Nandanam, Chennai 600 035. .. Respondent

Petition filed under Article 227 of the Constitution of India praying to set aside the impugned order passed in I.A.No.19 of 2021 in AIR(SA).No.137 of 2020 dated 01.03.2021 on the file of Debt Recovery Appellate Tribunal, Chennai and allow the appeal.

For Petitioner : Mr.P.Rajendran

ORDER

(Made by The Hon'ble Chief Justice)

This is a frivolous petition filed by an intransigent borrower refusing to pay the initial deposit for the appeal to be entertained by the Debt Recovery Appellate Tribunal.

2. The specious ground which is urged is that the claim of the bank was time-barred and as such there was no debt due from the petitioner for the Debt Recovery Appellate Tribunal to arrive at any figure as pre-deposit for entertaining the appeal.

3. It is evident that the petitioner has preferred an appeal against an order passed by a Debts Recovery Tribunal. An adjudication has taken place and a quantum has been found to be

due and owing from the petitioner to the relevant secured creditor.

4. In accordance with the second proviso to Section 18 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the quantum of pre-deposit depends on the amount claimed to be due by the secured creditor or the amount determined to be due by the Debts Recovery Tribunal, whichever is less. In this case, upon the adjudication undertaken by the Debts Recovery Tribunal, a particular figure has been ascertained to be the debt due from the petitioner to the relevant secured creditor. For the purpose of the relevant proviso, it is such figure which had to be taken into account for assessing the quantum of pre-deposit that the petitioner ought to make for the appeal to be entertained.

5. The order impugned dated March 1, 2021 has taken relevant considerations into account and has appropriately observed that the pre-deposit of 50% may be reduced, but not brought lower than 25%. There is an element of discretion which is available to the Appellate Tribunal to assess the quantum of deposit that should be required to be made. Such discretion appears to have been exercised on cogent grounds in the order impugned. Accordingly, the order does not call for any interference.

6. It has now become a habit for recalcitrant borrowers to wait till the last date before filing a writ petition on specious grounds and if the attempt to confuse the Court does not succeed, there is always a second line to fall back on: to seek an extension of the time to make the deposit. This bad habit has gone on far too long and it is high time that it is put an end to.

7. Since the last date for putting in the first instalment of the pre-deposit has already expired, the petitioner is permitted to put in such deposit in course of this week for the appeal before the Appellate Tribunal to progress any further.

C.R.P.No.798 of 2021 is disposed of. There will be no order as to costs. Consequently, C.M.P.No.6682 of 2021 is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sra

To

The Debts Recovery Appellate Tribunal,
Chennai.

+1cc to Mr.P.Rajendran, Advocate, S.R.No.2108

C.R.P.No.798 of 2021

KV(CO)
CS/20/04/2021