

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

C.R.P. (NPD) No.1396 of 2021

1.M/s.Annai Appliance Manufacturing P. Ltd.,
rep. By its Managing Director Kailesh Raja,
1-H, Karthik Nagar, Meena Estate,
Sowripalayam Road,
Coimbatore – 641 028.

2.Kailesh Raja
3.C.Packialakshmi
4.C.Ramesh Raja
5.C.Mukesh Raja
6.Bridha Kailesh
7.R.Vellaisamy

.. Petitioners

Vs

1.M/s.Canara Bank,
Asset Recovery Management Branch,
R.S.Puram, Coimbatore-641 002,
rep. By its Authorised Officer.

2.Yousouf Siddique

.. Respondents

Prayer: Revision filed under Article 227 of the Constitution of India against the order dated 24.03.2021 in I.A.No.282 of 2020 in M.A.No.71 of 2020 on the file of the Debt Recovery Appellate Tribunal, Chennai.

For Petitioners : Mr.N.Devarajan

For Respondents : Mr.P.Raghunathan
for M/s.T.S.Gopalan & Co.
for respondent No.1

ORDER

(Order of the Court was made by *the Hon'ble Chief Justice*)

There is no merit in this petition, wherein an order of pre-deposit issued by the Debt Recovery Appellate Tribunal at Chennai on March 24, 2021 has been challenged.

2. According to the petitioners, the subject-matter of the challenge before the appellate tribunal was the sale of a particular property and it was admitted by the secured creditor that the property was valued at about Rs.5 crore. The petitioners complain of the direction issued by the tribunal to deposit a sum of Rs.2.30 crore in two installments of Rs.1.15 crore each.

3. Section 18(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 provides for the right of appeal to any person aggrieved by an order made by the Debts Recovery Tribunal under Section 17 of the Act. The first proviso to such provision permits different fees to be prescribed for different classes of persons. The second proviso mandates that unless the borrower, when the borrower is the appellant, deposits with the appellate tribunal fifty per cent of the amount of "debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less" the appeal shall not be entertained. A further proviso governs the second proviso and such further proviso permits the appellate tribunal to reduce the amount of pre-deposit to not less than 25 per cent of the debt referred to in the second proviso.

4. Thus, the determining factor for assessing the quantum of pre-deposit is the debt due from the borrower. In this case, the impugned order records the challenge before the appellate tribunal. The challenge was to an order of February 24, 2020 passed by the Debts Recovery Tribunal, Coimbatore. The petition under Section 17

filed by the petitioners herein was dismissed and a sale notice was affirmed which had been issued in connection with the recovery of a sum of Rs.25.10 crore.

5. The impugned order also records that the quantum indicated to be due in the bank's notice under Section 13(2) of the Act was about Rs.21.20 crore.

6. It is possible that only a particular sale notice was challenged and the rest of the claim may not have been challenged. However, since an appeal is a creature of statute and can be hedged with conditions, the appeal under Section 18 of the Act obliges a borrower to deposit fifty per cent of the debt due as a pre-requisite for the appeal to be entertained. As to what amounts to the debt due is evident from the provision itself. The quantum of debt that has been adjudicated upon to be due or the claim of the secured creditor would be the debt due, subject to the lesser of the two figures being taken into account for the purpose of assessing the quantum of pre-deposit.

7. Since it appears that the order impugned has granted the petitioners the liberty to deposit a much lower amount than what is mandated by the relevant provision, the present challenge to it to even reduce such erroneous amount cannot be entertained.

8. C.R.P. (NPD) No.1396 of 2021 is dismissed.

There will be no order as to costs. Consequently,
C.M.P.No.10801 of 2021 is closed.

(S.B., C.J.) (S.K.R., J.)
26.07.2021

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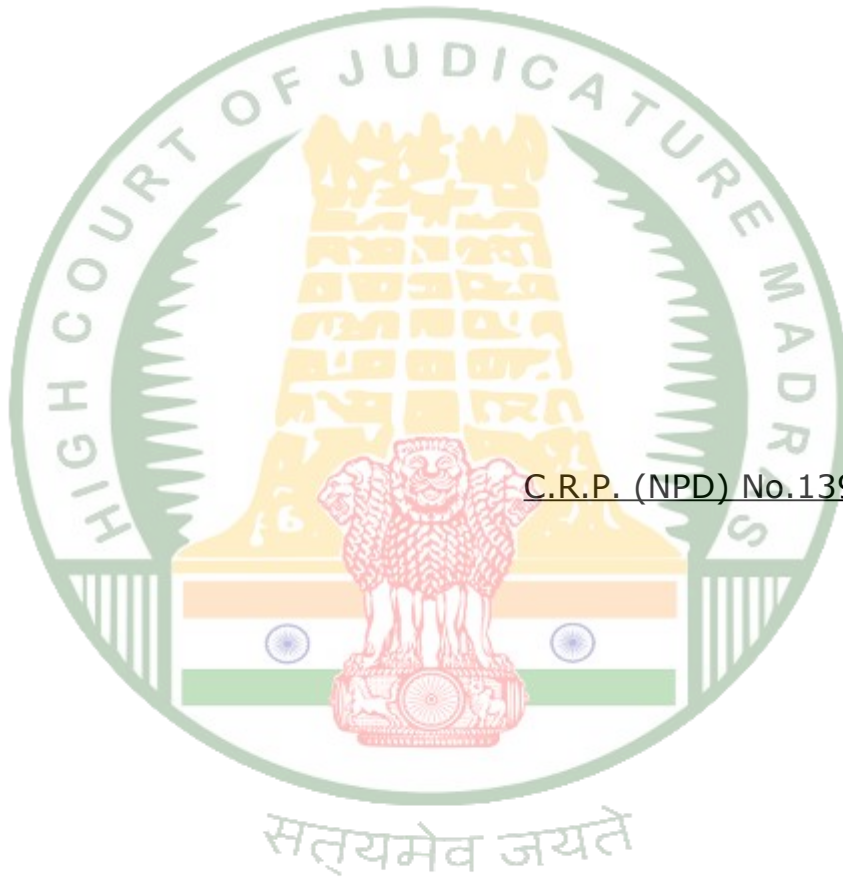
To

The Authorised Officer.
M/s.Canara Bank,
Asset Recovery Management Branch,
R.S.Puram, Coimbatore-641 002.

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THE HON'BLE CHIEF JUSTICE
AND
SENTHILKUMAR RAMAMOORTHY, J.

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C.R.P. (NPD) No.1396 of 2021

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