IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2872 OF 2025

Prabhat Plaza Private Limited & Others .... Petitioners.
V/s
Religare Finvest Limited ....Respondent

Mr. Sandesh Shukla a/w Mr. Vivek Patil, Ms. Sayli Patil, Mr. Afsar ansari, Mr. Amol Thorat, Mr. Devesh Sawant and Mr. Yogendra Shirwadkar i/b Mr. Vivek Patil & Associates for the petitioners.

Mr. Charles Desouza a/w Mr. Archit Virmani, Mr. Atul Gupta, Ms. Khushi Agarwal & Mr. Rupak Sawangikar, Advocates for the respondent.

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CORAM : A. S. CHANDURKAR &
M. M. SATHAYE, JJ.

DATE : 2nd APRIL 2025.

P.C. :

1. Heard. The challenge raised in this writ petition is to the order dated 10/02/2025 passed by the learned Chairperson, Debts Recovery Appellate Tribunal, Mumbai (for short, 'DRAT') adjudicating the prayer for waiver of pre-deposit preferred by the petitioners alongwith the appeal filed by them challenging the order dated 11/07/2023 passed by the Debts Recovery Tribunal. By the impugned order, the petitioners have been directed to deposit an amount of Rs. 3 Crores in three equal instalments by way of pre-deposit.

2. We have heard the learned counsel for the parties and we have perused the documents on record. Undisputedly, notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 came to be issued on 02/08/2021 wherein the amount outstanding indicated was Rs. 9,11,92,305.04/-. In view of payments made by the petitioners during pendency of the proceedings, the learned Chairperson on 11/11/2024 directed the respondent no.1-creditor to file an affidavit indicating the amount due and payable by the petitioners after giving credit to the amounts paid by petitioners. Accordingly, an additional affidavit dated 23/01/2025 came to be filed by the creditor wherein it was stated that the amount outstanding as on 22/01/2025 was Rs. 9,89,567.70/-. It is on this basis that the learned Chairperson directed deposit of an amount of Rs. 3 Crores towards pre-deposit in three equal instalments.

3. It was urged on behalf of the petitioners that the amounts indicated by the creditor in the additional affidavit were incorrect and that the amount paid by the tenants to the creditor had not been taken into consideration. We however find that at the stage

of determining the amount of pre-deposit under Section 18(2) of the Act of 2002, a detailed exercise of determining the mathematical correctness of the exact amount of dues cannot be undertaken. In the facts of the case, since an additional affidavit alongwith a statement of accounts maintained by the creditor were placed on record and the amount of pre-deposit which is approximately 33% of the amount stated to be outstanding as on 22/01/2025 has been directed to be deposited, we do not find that the learned Chairperson committed any jurisdictional error in directing such deposit. We therefore do not find any reason to interfere with the impugned order. Needless to state that after complying with such deposit, the petitioners can raise all grounds on merits for due consideration including the aspect of applicability of the Notification dated 29/05/2015 issued in view of Section 9 of the Micro, Small and Medium Enterprises Development Act, 2006.

4. For aforesaid reasons, we do not find any merit in the writ petition. The same is therefore dismissed with no order as to costs.

Pursuant to the ad-interim order dated 28/02/2025, an amount of Rs. 1 Crore towards the first instalment was deposited by the petitioners on 10/03/2025. The further two instalments of Rs. 1 Crore each in compliance with the impugned order shall be deposited on or before 23/04/2025 and 14/05/2025 respectively. Such deposit when made shall be considered as pre-deposit made in compliance with the impugned order.

[M.M. SATHAYE, J.] **[A.S. CHANDURKAR, J.]**