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C.M.S.A.No.76 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2025

CORAM :

THE HON'BLE MR JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

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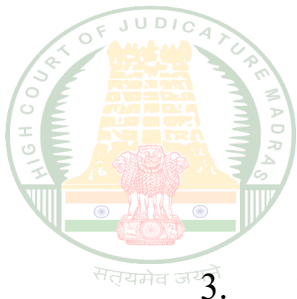
and

C.M.P.No.29058 of 2025

1. Mr.Albert Surendh Dawson
S/o.Albert Jesudasan
 2. Mrs.Cynthia Dawson
W/o.Mrs.Albert Surendh Dawson
- ... Appellants

Vs.

1. Axis Finance Ltd.,
Rep. By Constituted Attorney Ms.Radhika Agarwal
AXIS House, Ground Floor
C-2, Wardia International Centre
Pandurang Budhkar Marg, Worli,
Mumbai – 400 025.
2. The Director
M/s. Ozone Projects Pvt. Ltd.,
2nd Floor, 35/1 Yellappa Chetty Layout
Civil Station, Ulsoor Road,
Bangalore – 560 042.



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3. The Director
M/s.Selene Estate Ltd.,
New No.63, GN Chetty Road, T.Nagar
Chennai-600 017.

4. The Director
Tuscan Consultants & Developers Pvt. Ltd.,
2nd Floor, 35/1 Yellappa Chetty Layout
Civil Station, Ulsoor Raod,
Bangalore – 560 042.

... Respondents

Prayer:

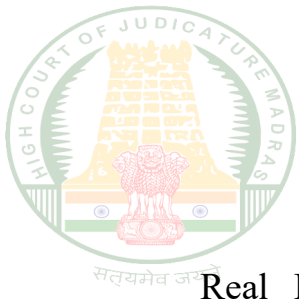
Civil Miscellaneous Second Appeal filed under Section 58 of the Real Estate (Regulation and Development) Act, 2016 read with Section 100 of the Code of Civil Procedure Code, to call for the records of the First Appellate Tribunal, set aside the order passed in A.P.No.50 of 2025 in I.A.No.29 of 2025 by the TNREAT on 20.08.2025 and allow this appeal.

For Appellants : Ms.D.Stephen

J U D G M E N T

(Made by HEMANT CHANDANGOUDAR, J.,)

This Civil Miscellaneous Second Appeal is filed under Section 58 of The Real Estate (Regulation and Development) Act, 2016 (hereinafter “the said Act”) assailing the order dated 20.08.2025 passed by the Tamil Nadu



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Real Estate Appellate Tribunal (TNREAT). By the said order, the TNREAT set aside the order dated 04.04.2025 passed in I.A. No. 29 of 2025 in C.No.13 of 2025 by the Tamil Nadu Real Estate Regulatory Authority (TNRERA), by which the e-auction notice issued by the first respondent Bank had been stayed.

2. The appellants herein filed a complaint under Section 31 of the said Act before the Regulatory Authority seeking, inter alia, a direction to the respondents Nos. 2 and 3 to redeem mortgaged properties in respect of which possession had been handed over to the appellants on receipt of the full sale consideration. The appellants also sought a direction to respondents Nos. 2 and 3 to obtain a No Objection Certificate (NOC) from the first respondent Bank for release of hypothecation and for other consequential reliefs.

3. As part of the reliefs sought, the appellants moved I.A. No. 29 of 2025 praying for a stay of the e-auction notice dated 22.03.2025 issued by the first respondent Bank. The Regulatory Authority, by order dated 04.04.2025, allowed the application and stayed the e-auction notice.



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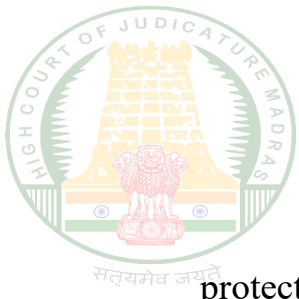
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Aggrieved by that order, the first respondent Bank preferred an appeal before the TNREAT.

4. The TNREAT allowed the Bank's appeal and set aside the Regulatory Authority's order staying the e-auction notice. Challenging the TNREAT order, the appellants have filed the present second appeal under Section 58 of the said Act.

5. Learned counsel for the appellants relied on the decision of the Hon'ble Supreme Court in ***Union Bank of India Vs. Rajasthan Real Estate Regulatory Authority and others [SLP(C) Nos.1861-1871 of 2022 dated 14.02.2022]***, particularly the observations in paragraph 36(v) of that judgment, to contend that where proceedings before RERA are initiated by home-buyers to protect their rights as allottees, certain protections are available. It was submitted that the Regulatory Authority has jurisdiction in matters where home-buyers seek to protect allottee rights.

6. The respondents before TNREAT took the stand that the present complaint was not a proceeding instituted by home buyers merely to



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protect their rights as allottees; instead the appellants sought a direction to the promoters/ builders (respondents Nos. 2 and 3) to redeem properties mortgaged to the Bank. It was submitted that a secured creditor such as the first respondent Bank does not fall within the jurisdiction of the Regulatory Authority and that TNRERA's jurisdiction is confined to complaints against promoters and real estate agents and not to dispute concerning the rights of secured creditors.

7. We have considered the submissions of learned counsel for the appellants and have perused the orders under challenge.

8. The precise question is whether the Regulatory Authority was competent to grant an order staying the e-auction notice issued under SARFAESI Act & Rules, and whether the Appellate Tribunal was in error in setting aside the interim order staying the e-auction notice.

9. The Appellate Tribunal, after considering the scope of TNRERA's jurisdiction and the nature of reliefs sought, rightly concluded that the Regulatory Authority ought not to have stayed the e-auction notice



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issued by the Bank.

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10. In the result, we find that the impugned order passed by the Appellate Tribunal does not suffer from any infirmity. Consequently, the Civil Miscellaneous Second Appeal is dismissed. The connected miscellaneous petition is closed. There shall be no order as to costs.

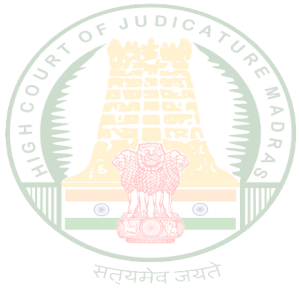
[R.S.K., J.] [H.C., J.]
26.11.2025

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Speaking / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No



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and
HEMANT CHANDANGOUDAR, J.

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