IN THE DEBTS RECOVERY TRIBUNAL – II AT CHENNAI

Dated this 15th day of May, 2026

PRESENT: **SHRI SHARANG DHAR UPADHYAY**
Presiding Officer

IA No.1547 of 2025 in SA No.90 of 2025

Mrs. Sujatha Rajkumar
W/o Late Mr. C.K. Rajkumar
Having Office at No.81/1
G.N. Chetty Road, T. Nagar
Chennai – 600 017 **…Petitioner / Applicant**

Versus

1. M/s LIC Housing Finance Ltd.,
Rep. by its Authorised Officer
Mr. M. Kathiresan
Harrington Chambers
No.30/1A, Block A (1st Floor) &
Block C, Abdul Razal First Street
Chennai – 600 015

2. L. Sridharan
Tower 3A "The Art"
Vijayashanthi, Kothari Road
Nungambakkam, Chennai – 600 034 **…Respondents / Respondents**

ORDER

1. This Interlocutory Application has been filed by the Petitioner / Applicant seeking to grant leave to raise additional grounds as (s) to (u) in the above case by way of amendment, in the interest of equity and justice.

Averments in the IA

2. It is stated that the above SA has been filed seeking to set aside the E-auction sale conducted on 10.01.2025, pursuant to the sale notice dated 05.12.2024 issued by the 1st Respondent. It is also stated that at the time of moving the IA for urgent hearing and Stay, the petitioner filed additional documents which could be submitted at the time of filing the main case and accordingly the applicant could not raise certain grounds in the original pleadings.

3. It is also stated that the 1st respondent filed its counter along with typed set of documents, however, the 1st respondent did not raise any objection or file any reply with respect to the additional documents already placed on record. Further, upon the inclusion of the 2nd respondent in the above proceedings, it has become necessary to file this amendment petition so as to incorporate additional grounds, numbered (s) to (u), in the above case, in order to bring to the notice of the Tribunal the lacunae and violations of the provisions of the At and the Rules.

4. It is stated that the grounds have been raised at this stage as they were not within the contemplation of the Petitioner / Applicant at the time of filing the SA. However, in the interest of justice and to ensure a comprehensive and proper adjudication of the matter, it is

just and necessary that these additional grounds are taken on record. It is stated that if the petitioner is allowed no prejudice will be caused to the respondents, on the other hand, the petitioner will be put to great hardship and inconvenience.

Counter of the 1st Respondent

5. The above application has been filed only with an intention to drag on the proceedings without any bonafide claim. The petitioner / applicant has the chance at the time of filing the SA itself only with the intention to drag on the proceedings had come up with this application.

6. The memorandum of deposit of title deeds dated 3.4.2017, Doc. No.1264 of 2017 clearly states that the land including its structures thereon, and the same issue had already been raised by the applicant's tenant in the earlier SA and the same had been decided and it hit by constructive resjudicata.

7. The 2nd respondent / auction purchaser had remitted the sale consideration within the time frame and the financial institution had issued sale confirmation on 11.1.2025. The 2nd respondent on 13.1.2025 had sought for an extension of time for making balance 75% of the sale consideration and the financial institution vide

letter dated 20.1.2025 granted extension of time till 20.02.2025 and the 2nd respondent had paid the entire sale consideration of Rs.21,77,00,000/- on 17.2.2025 and sale certificate was issued on 19.2.2025 and the same was registered as Doc. No.2398 of 2024 dated 3.6.2025 on the file of SRO, Kodambakkam.

8. The petitioner / applicant had filed this application with an ulterior motive to delay the proceedings without any bonafide merit in the application and has played fraud not only on the respondents but also on this Tribunal by suppressing vital material facts. The applicant has not established even a prima facie case warranting any relief from this Tribunal.

7. The petitioner / applicant cannot seek shelter under the MSME framework. It is clear from the judgment of the Hon'ble Supreme Court that MSME framework applies only when the bank / financial institution had issued 13(2) demand notice, the MSME enterprise had to issue a detailed reply under 13(3A) to the respondent financial institution stating that they are registered with MSME's cheme and they are in distress to grant the relief measures under the MSME Scheme whereas in this case the petitioner / applicant had not sought for the relief and hence cannot now claim the same belatedly. The SARFAESI Act prevail over MSME Act. The

actions of the first respondent are in accordance with law and clearly elucidated before this Tribunal in various SAs filed by the tenants of the applicant herein and this Tribunal dismissed the contentions raised by the applicant's tenant and the applicant cannot raise the same contentions once again and be hit by the principles of constructive resjudicata.

8. The petition for amendment at this stage, with frivolous grounds, shows applicant's clear intention to drag on the proceedings, and thus, such an application cannot be made, which is, per se illegal and defeats the very purpose of the summary proceedings.

Counter of 2nd Respondent

9. The 2nd respondent did not choose to file any counter.

Point for consideration

10. After hearing the parties and after perusal of the records, this Tribunal is of the view that the only point that arises for consideration is that

"**Whether this IA is liable to be allowed?"**

Answers to Point for consideration

11. On hearing the submissions made on either side and on perusal of the records, this Tribunal finds that the present application has been filed seeking leave to raise additional grounds (s) to (u) in the Securitisation Application. It is seen from the records that the main SA has been filed challenging the E-auction sale conducted on 10.01.2025 pursuant to the sale notice dated 05.12.2024 issued by the 1st respondent bank.

12. The contention of the petitioner / applicant is that certain additional documents came to be filed subsequently and upon impleadment of the 2nd respondent / auction purchaser, it became necessary to incorporate additional grounds so as to effectively adjudicate the issues involved in the matter. The petitioner has also contended that the proposed grounds were not within its contemplation at the time of filing the SA and that no prejudice would be caused to the respondents if the amendment is allowed.

13. On the other hand, the 1st respondent strongly opposed the application contending that the same has been filed only to protract the proceedings and that the issues sought to be raised have already been adjudicated in the earlier proceedings initiated by the tenant of the applicant and therefore barred by the

principles of constructive res judicata. The respondent has further contended that the auction sale has already been concluded, sale consideration has been fully paid by the 2nd respondent and sale certificate has also been issued and registered.

14. This Tribunal has carefully considered the rival submissions. It is a settled proposition of law that amendment of pleadings can be permitted at any stage of the proceedings if such amendment is necessary for determining the real controversy between the parties, provided no serious prejudice is caused to the opposite side. The proposed amendment in the present case is only with regard to incorporation of additional grounds and does not alter the nature and character of the original proceedings.

15. Further, whether the additional grounds are sustainable on merits, or whether the same are barred by constructive res judicata as contended by the respondents, are matters to be decided at the time of final adjudication of the SA and cannot be gone into in detail while considering an application for amendment. The respondents would also have sufficient opportunity to meet the additional grounds by filing additional counter, if so advised.

16. In view of the above facts and circumstances, this Tribunal is of the considered opinion that no prejudice would be caused to the

respondents if the amendment sought for is allowed, whereas refusal of the same may deprive the petitioner of an opportunity to place all its contentions before the Tribunal for effective adjudication.

17. Accordingly, the following:

ORDER

(i) IA No.1547 of 2025 is allowed.

(ii) The petitioner / applicant is permitted to incorporate the additional grounds (s) to (u) in the SA and file amended SA by next date of hearing.

(iii) The respondents are at liberty to file additional counter, if any, to the amended grounds within such time as may be granted by this Tribunal.

(iv) No order as to costs.

Sd/-
(SHARANG DHAR UPADHYAY)
PRESIDING OFFICER
DRT-II CHENNAI

(Dictated to PS, who typed in the system directly, corrected, signed and pronounced by me in Open Court, on this 15th day of May, 2026)