



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

W.P.(MD).No.23910 of 2016
and
W.M.P.(MD).No.17245 of 2016

Subash ... Petitioner
Vs.

1.The Authorized Officer,
State Bank of India,
Karur Branch,
Karur-639 000.

2.The Regional Manager,
State Bank of India,
Region-4,
Trichirappalli Zone,
Madurai Corporation Donalds Road,
Trichy-620 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling the records relating to the proceedings of the 2nd respondent made in RM-IV/470/43, dated 03.06.2016 and quashing the same and consequently direct the respondent to refund property amount to the petitioner to the extent of 507.75 Sq. feet.

For Petitioner : Mr.K.Govindarajan

For Respondents : Mr.Pala Ramasamy

O R D E R

(Order of the Court was made by T.S.SIVAGNANAM,J.)

Heard Mr.K.Govindarajan, learned counsel for the petitioner and Mr.Pala Ramasamy, learned Standing Counsel appearing for the respondent bank.

2. The petitioner is an auction purchaser. The property is a residential property, which was brought for sale for default repayment of loan availed by one Yashothai. The petitioner has filed this writ petition complaining that there is a gross variation in the extent of the property, which was purchased by him in auction. The difference in extent of property is 507.76 sq. fs.



3. Firstly, the relief sought for by the petitioner cannot be granted in the writ petition and if the petitioner is an auction purchaser he ought to have exercised due care and caution before participating in the auction. Now the reasons given by the petitioner are not sustainable. The remedy available to the petitioner is not by way of writ petition, but, by way of appropriate proceedings under SARFAESI Act.

4. It is seen that the petitioner earlier approached this Court in the year 2016 and filed W.P.No.7579 of 2016 and prayed for a direction to Karur Municipality to survey his property. The said writ petition was closed by order dated 22.04.2016 by recording the fact that survey has been conducted. It is not known as to why the petitioner did not pursue the matter further.

5. The respondent bank has rightly taken a stand that the property was sold in 'As is where is Basis' condition and if the petitioner is an auction purchaser, he ought to have exercised due care and caution on inspecting the quality and quantity of the property before participating in the Tender-cum-Auction sale.

6. Accordingly, this writ petition is dismissed as not maintainable. However, the petitioner is at liberty to approach the respondent bank for necessary relief. No costs.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

+One cc to Mr.Palaramasamy, Advocate, SR.No.50149

vsg/cm

RL/2C/2P/SKN/RSK/SRA2/9/3/2018

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