



W.P(MD)No.24299 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P(MD)No.24299 of 2022

M.Jahabar Ali,
S/o.Mohammed Arif,
A/5, Edaiyakkadu,
Madukkur,
Thanjavur District.

... Petitioner

VS.

1.Indian Bank,
Madukkur Branch,
Pudukottai Taluk,
Thanjavur District.

2.G.Meenakshi
3.V.Gunasekaran

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent to take steps to file appropriate application before the Debts Recovery Tribunal – III, Chennai and handover the vacant or house site situated in Kanniyakurichi Village, Madukkur, Pattukottai Taluk, Thanjavur District in Survey Nos.39/1A, 39/1B and 54C/1-1 from the second and third respondents based on the representation of the petitioner, dated 22.09.2022.



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For Petitioner : Mr.S.Krishnan
For R – 1 : Mr.Pala Ramasamy
Standing Counsel

ORDER

(Order of the Court was made by R.MAHADEVAN, J.)

The relief sought in this writ petition is to issue a Writ of Mandamus, directing the first respondent to take steps to file appropriate application before the Debts Recovery Tribunal – III, Chennai and recover the vacant or house site situated in Survey Nos.39/1A, 39/1B and 54C/1-1 in Kanniyakurichi Village, Madukkur, Pattukottai Taluk, Thanjavur District from the second and third respondents and handover the same to the petitioner, by considering his representation dated 22.09.2022.

2. It is the case of the petitioner that the second respondent obtained loan by mortgaging the subject property belonging to her, from the first respondent, in which, the third respondent stood as guarantor. Since she failed to repay the loan amount, the first respondent filed an application in O.A.No.100 of 2011 for recovery of money by selling the subject



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property. The Tribunal, by order, dated 25.11.2011 allowed the said original application, pursuant to which, execution proceedings was initiated in Recovery Certificate No.03 of 2012. On 10.06.2016, public auction was conducted, in which, the petitioner was declared as the successful bidder and he purchased the subject property on sale consideration of Rs.20,25,000/-. Subsequently, the sale was confirmed on 18.07.2016 in D.R.C.No.03 of 2012, however, possession was not given to the petitioner by the first respondent Bank. It is the further case of the petitioner that thereafter, the petitioner, as per the order of this court dated 21.12.2021 in W.P(MD)No.22649 of 2021, approached the Debts Recovery Tribunal-III, Chennai by filing an application seeking a direction to the first respondent bank to get the physical possession of the subject property. However, the said application was rejected questioning the *locus standi* of the petitioner. Therefore, the petitioner made a representation dated 22.09.2022 to the first respondent to take steps for handing over the possession of the subject property, which is pending without any progress. Finding no other alternative, the petitioner has preferred this writ petition for the aforesaid relief.



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3. According to the learned counsel for the petitioner, the petitioner purchased the subject property in the auction sale, after borrowing money from one Abu Bakar, who died recently, but the possession was not given to him by the first respondent bank, till date. Now, the legal heirs of the deceased demanded the petitioner to repay the loan amount or convey the subject property in their favour. Stating that it is the duty of the first respondent to handover the vacant possession to the petitioner, who is the successful bidder, upon confirmation of sale, however, they failed to discharge the same, the learned counsel prayed for appropriate direction to the first respondent in favour of the petitioner.

4. On the other hand, Mr. Pala Ramasamy, learned Standing Counsel, who takes notice for the first respondent, on instructions, submitted that the Bank authorities would take appropriate steps to redress the grievances of the petitioner, in accordance with law.

5. Recording the said submission made by the learned Standing Counsel for the first respondent, this court directs the first respondent to consider the representation of the petitioner, dated 22.09.2022 and take



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appropriate action, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

6.Accordingly, this writ petition stands disposed of. No costs.

[R.M.D.,J.] & [J.S.N.P.,J.]
20.10.2022

Index : Yes / No
Internet : Yes
ps

To

The Indian Bank,
Madukkur Branch,
Pudukottai Taluk,
Thanjavur District.



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R.MAHADEVAN,J.

and

J.SATHYA NARAYANA PRASAD,J.

ps

**ORDER MADE IN
W.P(MD)No.24299 of 2022**

20.10.2022