



W.P(MD)No.24703 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2022

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P(MD)No.24703 of 2022

V.Vijaya Prabhu

... Petitioner

vs.

1.The District Magistrate & District Collector,
O/o. The District Collector,
Theni District.

2.The Chief Manager & Authorized Officer,
Canara Bank,
Bodinayakanur Branch,
Theni District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to proceed in accordance with law, assist the petitioner in taking possession of the property situated in Old Survey No.812/4, New Survey No.41/2 in Old Ward No.15, New Ward No.27 in Plot No.39 in Survey Ward No.4 to an extent of 2286 square feet at 2nd South Street, Thendral Nagar, Bodinayakanur Municipal Town, Bodinayakanur, Theni District as per the SARFAESI Act.



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For Petitioner : Mr.S.M.A.Jinnah

For R – 2 : Mr.C.Deepak

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The petitioner has filed the present Writ Petition for issuance of Writ of Mandamus, directing the respondents to proceed in accordance with law and assist the petitioner in taking possession of the property situated in Old Survey No.812/4, New Survey No.41/2 in Old Ward No.15, New Ward No.27 in Plot No.39 in Survey Ward No.4 to an extent of 2286 square feet at 2nd South Street, Thendral Nagar, Bodinayakanur Municipal Town, Bodinayakanur, Theni District as per the SARFAESI Act.

2.According to the petitioner, he is the auction purchaser and paid the entire sale consideration. Pursuant to the same, sale certificate was issued to the petitioner on 15.07.2022. Without having the physical possession of the abovesaid property, the petitioner has paid three monthly EMI towards the housing loan. Since the second respondent has not handed over the physical possession of the said property to the petitioner, the petitioner has filed the present Writ Petition.



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3.The learned counsel appearing for the second respondent has brought to the notice of this Court that the second respondent Bank has filed a petition in CrI.M.P.No.7682 of 2022 before the learned Chief Judicial Magistrate, Theni, wherein, by order dated 30.11.2022, Advocate Commissioner has been appointed and posted the case on 30.12.2022 for filing the report of the Advocate Commissioner.

4.It is brought to the notice of this Court that the second respondent Bank has not paid the remuneration fee to the Advocate Commissioner. Per contra, learned counsel appearing for the second respondent Bank has refuted the same by contending that the second respondent Bank has paid the remuneration fee to the Advocate Commissioner.

5.The learned counsel appearing for the second respondent Bank submitted that the second respondent Bank is taking steps to hand over the physical possession of the abovesaid property to the petitioner.



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6.Recording the abovesaid submission, this Writ Petition is disposed of. No costs.

[D.K.K.,J.] [R.V.,J.]
08.12.2022

Index : Yes / No
Internet : Yes
ps

To

- 1.The District Magistrate & District Collector,
O/o. The District Collector,
Theni District.
- 2.The Chief Manager & Authorized Officer,
Canara Bank,
Bodinayakanur Branch,
Theni District.



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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
W.P(MD)No.24703 of 2022

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