



W.P(MD)No.28696 of 2022

**WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 22.12.2022**

**CORAM:**

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

**W.P(MD)No.28696 of 2022**

S.Balasubramanian

... Petitioner

VS.

1.The Recovery Officer,  
Debts Recovery Tribunal,  
Madurai.

2.The Branch Manager,  
Indian Overseas Bank,  
Sankarankoil Branch,  
Tenkasi District.

3.The Superintendent of Police,  
Tenkasi District,  
Tenkasi.

... Respondents

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the first respondent to take total physical possession of the property comprised of land and building situated at Old Door Nos.148 & 149, New Door Nos.25 & 26, Old Ward No. 9, 6, 2, New No.1, 8<sup>th</sup> Main Road, Sankarankoil Town in Survey No.264/2 in which the measuring of East West 55 feet and South North 87.75 feet to the total extent of 4826.25 sq.ft and handover the same to the petitioner on the

**1/6**



**W.P(MD)No.28696 of 2022**

order of attachment in DRC.No.28 of 2002 made by the Debts Recovery Tribunal – II, Chennai within the period stipulated by this Court.

For Petitioner : Mr.Ananth C.Rajesh  
For R – 2 : Mr.N.Dilip Kumar  
Standing Counsel  
For R – 3 : Mr.S.Manikandan  
Government Advocate (Criminal Side)

**ORDER**

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

The prayer in this Writ Petition is seeking for issuance of a Writ of Mandamus, directing the first respondent to take total physical possession of the property comprised of land and building situated at Old Door Nos.148 & 149, New Door Nos.25 & 26, Old Ward No.9, 6, 2, New No. 1, 8th Main Road, Sankarankoil Town in Survey No.264/2 in which the measuring of East West 55 feet and South North 87.75 feet to the total extent of 4826.25 sq.ft and handover the same to the petitioner on the order of attachment in DRC.No.28 of 2002 made by the Debts Recovery Tribunal – II, Chennai within the period stipulated by this Court.



**W.P(MD)No.28696 of 2022**

WEB COPY

2. According to the petitioner, the subject property in Survey No.264/2 was originally belonged to one N.K.Subbiah Mudaliar, who started a textile manufacturing unit and a trading business in the name and style of "M/s.Anooshuya Cotton Mill" at Sankarankovil. After his demise, the said cotton mill was administered by his three sons. To develop their business, the company obtained a loan from the second respondent Bank by mortgaging the entire property. Since they could not settle the amount to the second respondent Bank, the subject property was brought for auction. The petitioner had purchased the subject property through the auction sale conducted by the first respondent on 18.11.2005 and the first respondent has issued a sale certificate to the petitioner and the same has also been registered vide Document No.95 of 2006. The petitioner has also sold a portion of the property to a third party. The allegation of the petitioner is that one M.Sankaranarayan, who is a tenant in the aforesaid subject property, has refused to vacate the building premises. Since the petitioner decided to sell the building premises, he executed a power of attorney in favour of one D.Karunakaran. Based on the above, the said power agent sent a communication to the second respondent on 04.02.2017 and reminder on 01.12.2020. The second respondent had sent a reply, dated



**W.P(MD)No.28696 of 2022**

WEB COPY

09.12.2020 stating that the original power of attorney of the property had filed a Writ Appeal along with a petition for special leave. According to the petitioner, the said special leave petition, filed by the third party, was dismissed. Narrating all the facts, the said power of attorney, sent a detailed representation to the second respondent on 09.12.2022 and though the second respondent received the same, no action was taken. Hence, the petitioner has filed the present Writ Petition.

3.Heard the learned counsel appearing on either side.

4. Admittedly, the petitioner has already sold the subject property to a third party and now, he has filed the present writ petition seeking a direction to the Debts Recovery Tribunal to vacate the tenant, who is in occupation of the subject property and hand over the vacant possession of the property to him. Further, the respondent – Bank has also sent a reply dated 09.12.2020 to the petitioner stating that the petitioner's request was rejected for the reason that the subject property already been sold to one Balasubramanian and the dispute between the buyer Balasubramanian and one S.N.Murugesan has also been settled. Therefore, the relief sought for by the petitioner cannot be granted and the writ petition is not



**W.P(MD)No.28696 of 2022**

WEB COPY

maintainable. However, the petitioner is at liberty to approach the appropriate forum for redressal of his grievance, in accordance with law.

5. With the above observation, the writ petition is disposed of. No costs.

**[D.K.K.,J.] [R.V.,J.]**  
**22.12.2022**

Index : Yes / No  
Internet : Yes  
ps

To

- 1.The Recovery Officer,  
Debts Recovery Tribunal,  
Madurai.
- 2.The Branch Manager,  
Indian Overseas Bank,  
Sankarankoil Branch,  
Tenkasi District.
- 3.The Superintendent of Police,  
Tenkasi District,  
Tenkasi.



WEB COPY



W.P(MD)No.28696 of 2022

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

ps

**ORDER MADE IN**  
**W.P(MD)No.28696 of 2022**

**DATED : 22.12.2022**