



WP No.20057 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.20057 of 2023

A.Ansari : Petitioners

versus

- 1.The Punjab National Bank
rep. by its Branch Manager,
Luz Church Road Branch,
Luz church Road, Chennai.
- 2.The Recovery Officer,
Debts Recovery Tribunal II, 4th Floor,
Dewa Towers, No.770A Anna Salai
Chennai-2.
- 3.The Deputy Commissioner of Police,
St.Thomas Mount, Chennai
- 4.The Assistant Commissioner of Police,
Pallavaram, Chennai
- 5.The Inspector of Police,
S5 Pallavaram Police Station
Pallavaram, Chennai
- 6.P.Narayanaswamy : Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 2nd respondent to take possession of the Subject Property at No.23A, Munusamy Maistry Street, Essa Pallavaram Chennai- 600 043 with the aid and protection of the 5th Respondent and handover vacant possession to the Petitioner in a time bound manner.

For the Petitioner : Mr.A.Mohamed Ismail

For Respondent No.1 : Mr.T.Raghunathan

For Respondents 3 to 5 : Mrs.R.Anitha, Spl.G.P.

For Respondent No.6 : Mr.P.Vijendran

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.A.Mohamed Ismail, learned counsel for the petitioner, Mr.T.Raghunathan, learned counsel for the first respondent, Mrs.R.Anitha, learned Special Government Pleader, for respondents 3 to 5 and Mr.P.Vijendran, learned counsel for the sixth respondent.

2. The petitioner is an auction-purchaser in a sale conducted by the Recovery Officer pursuant to the recovery certificate issued under the provisions of the Recovery of Debts due to Banks and Financial



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Institutions Act, 1993.

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3. The grievance of the petitioner is that the petitioner has purchased the property under auction in the year 2007. However, as yet, the possession has not been delivered.

4. The learned counsel for the sixth respondent submits that the wife of the sixth respondent had mortgaged the property to help the borrower. She died in the year 2019. The sixth respondent is ready to settle the entire claim of the petitioner. The property purchased by the petitioner in the auction is the only dwelling house for the sixth respondent.

5. According to the learned counsel for the petitioner, tenants are inducted into the said property and they have also filed writ petitions.

6. It appears that the wife of the sixth respondent had filed writ petition bearing WP No.21616 of 2017. Under order dated 13.04.2018, the said writ petition was dismissed with an observation that the



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petitioner therein shall handover the vacant possession to the Recovery Officer within a period of six weeks. Though the said order was passed on 13.04.2018, possession has not yet been handed over to the petitioner herein. Wife of the sixth respondent (petitioner in WP No.21616 of 2017) has expired in the year 2019.

7. Be that as it may, as the Recovery Certificate is in force, and there is no stay operating, it is incumbent upon the Recovery Officer to execute the recovery certificate and place the petitioner in possession.

8. The learned counsel for the petitioner submits that applications have been given to the Recovery Officer. The Recovery Officer shall proceed for delivery of possession as per the provisions of the RDB Act, II Schedule of the Income Tax Act and such other provisions, so as to place the petitioner in possession. The Recovery Officer also has got powers to seek police protection/aid.

9. We hope and trust that the Recovery Officer shall take steps expeditiously to place the petitioner in possession.



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10. With these observations, the writ petition is disposed of.

There will be no order as to costs.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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