



W.P(MD)No.5198 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2023

CORAM:

THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P(MD)No.5198 of 2023
and
W.M.P(MD)No.4896 of 2023

R.Ramachandran

... Petitioner

-VS-

1. The Branch Manager,
Tamilnadu Mercantile Bank,
51, Keezha Avani Moola Street,
Main Branch, Madurai-1.

2. Mrs.C.Kathambai ... Respondents
(R2 impleaded vide order dated 23.06.2023 made in WMP(MD).6688/23)

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondent to hand over the possession of the land to an extent of 891 Sq.Ft. and house building situated in T.S.No.1179/2, S.Ward No.3, Pookara Lane, Ezhuthanikara Street, China Kadai Street, Madurai and to register the sale based on the sale certificate by the respondent bank on 27.12.2019 and consequently directing the respondent to pay the interest for the deposited amount of Rs.55,75,000/- by the petitioner from the date of



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WEB COPY issuance of sale certificate dated 27.12.2019.

For Petitioner : Mr.F.Deepak
For R1 : Mr.P.Thilakkumar, Govrenment Pleader
For R2 : Mr.G.Mohankumar

ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

The grievance of the petitioner is that though an order under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (SARFAESI Act) is passed way back in the year 2020, the same is not yet been implemented.

2. The petitioner is the auction purchaser. A sale certificate is also issued in favour of the petitioner. However, actual physical possession cannot be delivered, because, the 2nd respondent is actually residing in the same. The 2nd respondent is the wife of the original borrower. The original borrower is dead. The action under the SARFAESI Act has been completed upto the issuance of the sale certificate.



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3. Learned Advocate for the 2nd respondent submits that the 2nd respondent is an old age lady residing in the said premises. She is ready to be the tenant of the auction purchaser and pay rent to the auction purchaser. She has no other place to move. Her son is also dead.

4. Learned Advocate for the auction purchaser further submits that another son of the 2nd respondent is residing abroad and is well placed.

5. We do have sympathy for the 2nd respondent, however, it also needs to be considered that the petitioner is the auction purchaser. The said order also needs to be executed.

6. Considering the age of the 2nd respondent, we direct that the authorities may not take any action for a period of one month from today so as to enable the 2nd respondent to re-locate herself. The authorities may take further action pursuant to the order under Section 14 after a lapse of one month.



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WEB COPY 7. With the above direction, the Writ Petition is disposed of. No costs. Connected miscellaneous petition is closed.

[S.V.G., .C.J.]

[R.S.M., J.]

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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THE HONOURABLE CHIEF JUSTICE
and
R.SUBRAMANIAN, J.

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