



W.P(MD)No.5804 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 29.08.2023

CORAM :

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

**AND**

**The HON'BLE MR.JUSTICE C.KUMARAPPAN**

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and

W.M.P(MD)Nos.5376 and 5377 of 2023

G.Purushothaman

... Petitioner

Vs.

The Tamilnadu Industrial Investment Corporation,  
Represented by its Branch Manager,  
Dindigul Branch,  
Plot No.1, Ground Floor,  
Pandian Nagar 1<sup>st</sup> Street,  
Dindigul – 624 001.

.. Respondent

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus, directing the respondent Corporation to deliver possession of the lands in Town Survey number 5/2A1, Survey number 76/B2, Palani Town, Dharapuram road, Palani Taluk, Dindigul District, measuring about 55 cents to the petitioner as per the auction notice dated 15.02.2023 issued by the respondent Corporation and in the alternative, to receive the proportionally the sale price for the extent of



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lands actually delivered, if the respondent corporation is not in a position to deliver the extent of 55 cents as per the said auction notice.

For Petitioner : Mr.VR.Shanmuganathan

For Respondent : Mr.R.Saravanan

**ORDER**

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

We have heard Mr.VR.Shanmuganathan, learned counsel for the petitioner and Mr.R.Saravanan, learned counsel for the respondent/ Corporation.

2. The learned counsel for the petitioner submits that the petitioner is an auction purchaser pursuant to the e-auction conducted. It was representing that the subject matter of auction is 55 cents of land. The petitioner is the successful bidder and he purchased the property for a total consideration of Rs.97,14,000/-. The petitioner has filed the writ petition on 03.03.2023 contending that as per the valuation report, the property is only 40 cents and as the property is only 40 cents, the respondent has no right to seek the amount representing the property as 55 cents. The learned counsel



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further submits that the respondent cannot go beyond the valuation report.

The consideration can be only in respect of the land available.

3. The learned counsel for the petitioner relies on the judgment of the Hon'ble Apex Court in a case of *Mrs.Leelamma Mathew v. M/s.Indian Overseas Bank and Others* in Civil Appeal No.7128 of 2022.

4. The learned counsel for the respondent Corporation submits that as per the document on record, the land admeasures 55 cents and the land was sold on 'as is where is' basis. Reserve price was also the same as notified by the valuer.

5. We have considered the submissions. Admittedly, neither the petitioner nor the bank have measured the property in question. Without measuring the area, the extent of the land cannot be ascertained. It is not disputed that as per the document, the land admeasures 55 cents. The auction was in respect of 55 cents of the land. The valuation was fixed in view of valuation report.



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6. The petitioner now claims that the land is only 40 cents. In a writ jurisdiction without any measurement report, it would not be possible to arrive at a conclusion about the extent of the land.

7. In case of Mrs.Leelamma Mathew(supra) relied on by the learned counsel for the petitioner, the matter was arising against the judgment of a trial Court wherein the trial Court upon recording of evidence had arrived at a conclusion about the extent of the land. It was observed that a part of the land was sold by the owner before the creation of the mortgage. As such, the mortgagor did not have the title to mortgage the entire area of the land and the third persons are the owner of the remaining area of the land.

8. As observed above, none of the parties have measured the property. It would not be possible to enter into investigation of the disputed questions of facts under Article 226 of the Constitution of India.

9. It appears that the petitioner has deposited the amount on 28.03.2023.



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10. In case, if after the measurement it is found that the area of the land is less, then the petitioner has a remedy under the provisions of the Specific Relief Act, 1963, to take necessary steps in that regard.

11. In view of the aforesaid observations and discussions, the writ petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

(S.V.G., CJ.)

(C.K., J.)

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NCC : Yes/No  
Index : Yes/No  
PM



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**THE HON'BLE CHIEF JUSTICE**  
**and**  
**C.KUMARAPPAN, J.**

**PM**

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