



W.P(MD)No.11238 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2023

CORAM :

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P(MD)No.11238 of 2022

and

WMP(MD)No.8016 of 2022

S.Palanikumar
Represented by his Power Agent
S.Kamatchi Sundaram

... Petitioner

VS.

1. The Zonal Manager,
Indian Bank,
Zonal Office,
Nos.111 & 112, East Aavani Moola Street,
Madurai-625001.

2. The Authorized Officer,
Indian Bank,
Vilakkuthoon Branch,
Madurai-625001.

3. Manimala

4. The District Collector,
Collector Campus, Madurai,
Madurai District.

1/7



W.P(MD)No.11238 of 2022

5. The Tahsildar,
Taluk Office, Madurai West,
Madurai District.

... Respondents
(R4 & R5 are impleaded vide court order dated 20.1.2023 in
WMP(MD)No.22808/2022 in W.P(MD)No.11238/2022)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the respondents 1 and 2 to take possession of the property comprised in Resurvey No.59/3, Plot No.5, Door No.200/2, Krishnan Kovil Street, TPM Nagar, Theni Main Road, Kochadai Village, Madurai, Old No.240, Irulandi Thevar Colony, Viratipathu, Madurai-625010 and hand over the possession of the property to the petitioner, since the petitioner is the successful bidder in the E-Auction Sale conducted by the respondents Bank on 26.09.2014, by considering the petitioner's latest representation dated 23.05.2022.

For Petitioner	: Mr.R.Murugan
For R2	: Mr.M.Senthilkumar
For R3	: Mr.Shankarganesh
For R4 & R5	: Mr.P.T.Thiraviyam
	Government Advocate



W.P(MD)No.11238 of 2022

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ORDER

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

The prayer in this writ petition is for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to take possession of the property comprised in Resurvey No.59/3, Plot No.5, Door No. 200/2, Krishnan Kovil Street, TPM Nagar, Theni Main Road, Kochadai Village, Madurai, Old No.240, Irulandi Thevar Colony, Viratipathu, Madurai-625010, and hand over the same to the petitioner who is the successful bidder in the E-Auction Sale conducted by the respondent Bank on 26.09.2014, by considering the petitioner's latest representation dated 23.05.2022.

2. Learned counsel for the petitioner submitted that the petitioner was the successful bidder in the auction and he paid the entire sale consideration to the respondent Bank and a sale certificate was also issued to him, but the respondent Bank has not taken necessary steps for handing over possession of the property to the petitioner. Hence, this writ petition.

3/7



W.P(MD)No.11238 of 2022

WEB COPY

3. The 2nd respondent/Bank has filed a counter affidavit. Learned counsel appearing for the 2nd respondent submitted that the District Collector, Madurai, has passed an order on 24.06.2015, for taking physical possession of the secured property and authorised the 5th respondent to take possession of the same. However, on the request of the 3rd respondent/borrower, the 5th respondent gave her time to vacate and hand over the possession of the secured property. Subsequently, on the request of the Bank, the 5th respondent agreed to take possession on 25.10.2016. However, on that day, at the behest of the 3rd respondent, one Manoharan thwarted the attempt with the help of rowdy elements and subsequently he filed a suit in O.S.No.300/2016 on the file of the District Munsif Court, Tirumangalam. The 3rd respondent also filed W.P(MD)No.9882/2017 for a direction to the Debts Recovery Tribunal, Madurai, to dispose of the unnumbered SARFAESI appeal filed by her. The said writ petition was dismissed by this Court on 15.11.2018 and the unnumbered SA.SR.No.3616/2017 was also dismissed on 13.03.2020. Therefore,



W.P(MD)No.11238 of 2022

the respondent Bank approached the 5th respondent and requested to assist in taking physical possession of the secured property, but the revenue officials declined to co-operate for the same.

4. Now, learned Government Advocate appearing for the respondents 4 and 5 submitted that necessary action will be taken for complying with the order passed by the District Collector within a time frame to be fixed by this Court.

5. Recording the said submission, we direct the 5th respondent to take physical possession of the secured property by implementing the order dated 24.06.2015 passed by the District Collector, if there is no legal impediment. Such an exercise shall be completed by the 5th respondent within a period of eight weeks from the date of receipt of a copy of this order. For the delay in taking possession of the secured property, the petitioner may approach the respondent Bank seeking payment of interest for the delayed period.



W.P(MD)No.11238 of 2022

WEB COPY 6. With the above direction, the Writ Petition is disposed of.

No costs. Connected miscellaneous petition is closed.

[D.K.K.,J.] & [L.V.G.,J.]
16.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

1. The District Collector,
Collector Campus, Madurai,
Madurai District.

2. The Tahsildar,
Taluk Office, Madurai West,
Madurai District.



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W.P(MD)No.11238 of 2022

D.KRISHNAKUMAR, J.
and
L.VICTORIA GOWRI, J.

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ORDER MADE IN
W.P(MD)No.11238 of 2022
DATED : 16.02.2023