



W.P(MD)No.25560 of 2022

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

**DATED : 29.11.2023**

**CORAM :**

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE  
and  
THE HONOURABLE MR.JUSTICE K.K. RAMAKRISHNAN**

**W.P(MD)No.25560 of 2022**

S.Malayappasamy

... Petitioner

Vs.

- 1.State Bank of India,  
Oddanchathiram Branch,  
Rep. by its Authorized Officer,  
Oddanchathiram – Dindigul Main Road,  
Opp. to Bus Stand,  
Oddanchathiram Village,  
Oddanchathiram Taluk,  
Dindigul District.
- 2.The District Collector,  
Dindigul District,  
Dindigul.
- 3.The Assistant Director,  
Department of Survey,  
Dindigul District.
- 4.The Thasildhar,  
Oddanchathiram Taluk,  
Dindigul District.
- 5.The Head Surveyor,  
Office of the Thasildhar,  
Section of Survey,  
Oddanchathiram Taluk,  
Dindigul District.



**W.P(MD)No.25560 of 2022**

**6.S.Sivagnanam**

... Respondents

WEB COPY

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 3 to 5 to fix the boundaries of the auction sale dated 13.07.2018 measuring to an extent of 800 sq. ft. comprised in natham S.No.368/N1A, Door NO. 1/870, 1/270, 1/271, 272, 273, 274, 275, 276, 277, 278 and 279 at Thangachimmapatty Village, Oddanchatram Taluk, Dindigul District, and consequently directing the first respondent to refund the balance amount of the fore said auction cum tender a sum of Rs.7,68,373.

For Petitioner : Mr.S.M.Ramsivia

For R-1 : Mr.R.Pandivel

For R-2 to R-5 : Mr.T.Amja Khan,  
Government Advocate

For R-6 : Mr.V.Sasikumar

### **ORDER**

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

Heard the learned counsel appearing on either side.



**W.P(MD)No.25560 of 2022**

2. The learned counsel for the petitioner submits that the petitioner is the borrower of the respondent bank. In 2018, the bank has sold the property of the petitioner. The total outstanding amount is Rs.14,60,637/-. The petitioner has not challenged the sale. However, while executing the document and delivering the possession, excess area to an extent of 276 sq. ft. has been sold. The property was sold for Rs.21,70,000/-. The learned counsel submits that when the petitioner went to get the excess amount from the bank, the bank communicated that amount of Rs.23,77,000/- is payable and remaining Rs.2,00,000 is claimed by the bank from the petitioner. The sale is illegal.

3. The learned counsel for the bank submits that the amount of Rs.14,70,000/- is excluding the interest. The interest is not added after the account was declared as Non Performing Asset. The bank has not sold any excess area. The mortgaged property only was sold by the bank.

4. In a writ jurisdiction, it would not be possible to arrive at a conclusion with regard to the exact area and the site sold by the bank. The petitioner has got remedy to apply for measurement after payment of necessary fees. If such an application is filed along with necessary



**W.P(MD)No.25560 of 2022**

fees, then the Authority may conduct the measurement. If after measurement, some defect is found in respect of the sale, then the petitioner can agitate in respect of the sale of the property as may be permissible under law.

5. With regard to the settlement of amount is concerned, the same cannot be a subject matter of adjudication under Article 226 of the Constitution of India. The petitioner may avail the remedy with regard to the sale as may be permissible under law.

6. In case the proceedings are initiated, then the contentions of the parties on merits are kept open.

7. The writ petition is accordingly disposed of. No Costs.

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

**[K.K.R.K., J.]**

**29.11.2023**

Index : Yes / No  
Neutral Citation : Yes / No  
PM



**W.P(MD)No.25560 of 2022**

To:

- 1.The District Collector,  
Dindigul District,  
Dindigul.
- 2.The Assistant Director,  
Department of Survey,  
Dindigul District.
- 3.The Thasildhar,  
Oddanchathiram Taluk,  
Dindigul District.
- 4.The Head Surveyor,  
Office of the Thasildhar,  
Section of Survey,  
Oddanchathiram Taluk,  
Dindigul District.



WEB COPY



W.P(MD)No.25560 of 2022

**THE HONOURABLE CHIEF JUSTICE**  
**and**  
**K.K. RAMAKRISHNAN, J.**

PM

**W.P(MD)No.25560 of 2022**

**29.11.2023**