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W.P.No.12430 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR  
AND  
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.12430 of 2024

Dr.S.K.Senthil Kumar

.. Petitioner

v.

1. Indian Bank

Taramani Link Road Branch  
represented by its Branch Manager  
No.9, Sambandam Gardens  
Taramani Link Road, Velachery  
Chennai 600 042

2. Indian Bank

having its Head Office  
at No.55, Rajaji Salai  
Chennai 600 001

3. Asset Reconstruction Company (India)  
Limited (Arcil)

Registered Office: The Ruby  
10<sup>th</sup> Floor, 29, Senapati Bapat Marg  
Dadar (W), Mumbai 400 028  
Contact Office:  
Office No.560-562, 1G, 1<sup>st</sup> Floor, Century Plaza  
Anna Salai, Teynampet, Chennai 600 018

.. Respondents



W.P.No.12430 of 2024

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 3<sup>rd</sup> respondent to execute and register the Sale Certificate in favour of the petitioner in respect of the Writ Petition Schedule Property purchased by the petitioner as per the Provisions and Rules of the SARFAESI Act, 2002 in the 3<sup>rd</sup> respondent's E-auction conducted on 20.09.2023 confirmed by the 3<sup>rd</sup> respondent's Sale Confirmation Letter dated 27.09.2023 consequently direct the 3<sup>rd</sup> respondent to handover the vacant physical possession of the writ petition schedule property.

For Petitioner        ::        Mr.R.Murugan

For Respondents    ::        Mr.T.Karthi for  
                                         M/s Aiyar & Dolia for R1 & R2  
                                         Mr.M.L.Ramesh  
                                         and Mr.Balasubramani for R3

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

This writ petition is filed by the auction purchaser with distorted facts. The prayer in the writ petition is to direct the third respondent to execute and register the sale certificate in favour of the petitioner in respect of the schedule property purchased by the petitioner in e-auction conducted on



W.P.No.12430 of 2024

20.09.2023, which was confirmed by the third respondent by letter dated 27.09.2023.

2. It is unfortunate to notice that two counsels appear for the third respondent. However, Mr.Balasubramani, learned counsel who made his submissions on behalf of third respondent, has agreed to withdraw his Vakalat.

3. Both the counsels unanimously submitted that the registration of sale certificate has been delayed only because the petitioner-auction purchaser insists that one of the conditions subject to which the sale in favour of auction purchaser had taken place, is opposed by the petitioner. In other words, it is admitted before this Court that the sale in favour of auction purchaser is subject to “as is where condition”. Since the auction purchaser specifically wants this term to be excluded in the sale certificate, the third respondent, who has now acquired the security interest, states that the registration of sale certificate will be done without any difficulty, if the petitioner accepts registration without insisting for removal of the above



W.P.No.12430 of 2024

clause.

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4. The learned counsel appearing for the petitioner submitted that the third respondent may be directed to handover physical possession to the auction purchaser.

5. For this, the learned counsel for third respondent states that physical possession has not been handed over to the petitioner, as the issue is still pending with the learned Chief Metropolitan Magistrate, Chennai in CrI.M.P.No.6808 of 2016.

6. Though the petitioner has produced before this Court the order dated 29.06.2016, it would only show that the Advocate Commissioner has been directed to execute the warrant to handover physical possession. However, it is now admitted that the Advocate Commissioner has not executed the warrant and possession is not handed over to the third respondent. The writ petition is, therefore, disposed of with an advise to the petitioner not to insist any condition which would be contrary to the terms of



W.P.No.12430 of 2024

sale that was confirmed in his favour. Similarly, the third respondent shall do their endeavour to ensure handing over physical possession to the petitioner as and when the order of the learned Chief Metropolitan Magistrate under Section 14 of the SARFAESI Act is executed. No costs.

Index : yes/no  
Neutral citation : yes/no

(S.S.S.R.,J.) (N.S.,J.)  
28.06.2024

SS

To

1. The Branch Manager  
Indian Bank  
Taramani Link Road Branch  
No.9, Sambandam Gardens  
Taramani Link Road, Velachery  
Chennai 600 042
2. The Authorised Officer  
Indian Bank  
No.55, Rajaji Salai  
Chennai 600 001
3. The Authorised Officer  
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W.P.No.12430 of 2024

S.S.SUNDAR,J.  
AND

N.SENTHILKUMAR,J.

SS

W.P.No.12430 of 2024

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