



WP.No.13321 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

WP.No.13321 of 2024

and

WMP.Nos.14476 to 14478 and 17126 and 17128 of 2024

1. Sri Vinayaga Bankers
Rep by its Proprietor M.Mohan
No.136-6, Sankari Main Road,
Nethimedu,
Salem District-636002.

2. Sri Vinayaga Finance
Rep by its Proprietor M.Mohan
No.136-6, Sankari Main Road,
Nethimedu,
Salem District-636002.

3. Suriyavidiyal Micro Finance
Rep by its Proprietor K.Shanthi
Kondampatty,
Salem District-636010.

... Petitioners

Vs.

1. The State,
Rep by, Director General of Police,
Law and Order, Post Box.No.601,
Dr.Radhakrishnan Salai,
Mylapore, Chennai.



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2. The State rep by
The Assistant Commissioner of Police,
Annathanapatti Police Station,
Salem-636 002.

3. The State rep by
The Station House Officer,
Inspector of Police,
Annathanapatti Police Station,
Nettimedu, Salem-636 002.

4. R.Ramaraj
Managing Partner of
M/s.Maruthi Constructions,
Office at No.165, Palaniappa Nagar,
Suramangalam, Salem-636 005.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the 1st respondent to issue specific direction to the respondents 2 and 3 not to interfere with the civil dispute being subject matter of O.S.No.587 of 2023 pending on the file of the learned Principal District Munsif, Salem, in respect of the property belongs to the petitioner situated at Salem East Registration District, Dadagapatty Sub Registration District in S.No.85/2 in Salem Taluk, Annathanapatti Village, now new T.S.No.96/6 Ward W, Block 49, with a total extent of 2.27 acres and land comprised in S.No.85/5, Punja Hectares 0.45.5, punja acre 1.13 cents Rs.2.25 in this punja acre 0.56 cents to an extent of 24393.60 sq.ft.



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For Petitioner : Mr.N.Umapathi

For Respondents : Mr. S.Udaya Kumar
Government Advocate (Crl.Side)
for R1 to R3

: Mr.E.Om Prakash,Senior Counsel
for Mr.S.Siva Shanmugam for R4

ORDER

This Writ Petition is filed seeking mandamus or any other appropriate writ, directing the second and third respondents not to interfere with the civil dispute, being subject matter of O.S.No.587 of 2023 pending on the file of Principal District Munsif Court, Salem.

2. The learned counsel appearing for the petitioners submits that the petitioners are the owners of the subject property and they raise loan to the tune of Rs.2.5 crores from City Union Bank for non payment of loan amount, the property been brought to auction and the fourth respondent herein is the auction purchaser. The property worth about more than Rs.60 crores with coconut trees and other standing crops been sold for a paltry sum of Rs.9 crores. Since its being the agricultural land the *SARFAESI* proceedings is vitiated by procedural lapses. The petitioners sought for interference by DRT and subsequently by DRAT wherein the reply was given to the petitioner on condition that he should



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pay Rs.6.75 crores. However, the petitioners were not able to mobilize such huge amount and able to pay Rs.7.5 lakhs. Under these circumstances, the Civil suit in O.S.No.587 of 2023 was instituted by the purchaser seeking injunction and the same is pending.

3. Under such circumstances, the possession of the property is taken and the police had given protection to the auction purchaser to put up construction in the land. Hence, the petition was given to the respondent police to restrain the fourth respondent and others from altering the physical feature. However, the same not been considered. Hence, the present petition.

4. The learned Government Advocate (Crl.Side) submits that the complaint of the petitioner apparently arising out of money transaction suit is already pending. Therefore, the parties have been advised to work out their remedy before the Civil Court and the representation has been closed.

5. The learned counsel appearing for the fourth respondent submits that he being the auction purchaser under the *SARFAESI* Act had taken possession of the property under the sale certificate dated 21.12.2023. Since the petitioner and his henchmen tried to interfere with the peaceful possession, he has approached the Civil Court and filed O.S.No.587 of



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2023 seeking permanent injunction and also filed interlocutory application seeking temporary injunction. The said IA was contested and the trial Court had made absolute the interim order granted. The petitioner herein cannot take advantage of the suit pending initiated by the auction purchaser to protect his possession as a sword to prevent the auction purchaser enjoying the fruit of his purchase.

6. This Court on considering the submissions and the records finds that this writ petition is filed only to detract the process of SARFAESI proceedings initiated against the petitioner for non payment of the loan amount availed by them. The fourth petitioner herein is the bonafide auction purchaser and he cannot be deprived of the fruit of his auction purchase. Hence, this writ petition is dismissed as devoid of merits. Accordingly, the connected implead petitions in WMP.No.17126 and 17128 of 2024 are dismissed. Consequently, the connected miscellaneous petitions are closed.

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Vv



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To

WEB COPY

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Law and Order, Post Box.No.601,
Dr.Radhakrishnan Salai,
Mylapore, Chennai.
2. The Assistant Commissioner of Police,
Annathanapatti Police Station,
Salem-636 002.
3. The Station House Officer,
Inspector of Police,
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Dr.G.JAYACHANDRAN,J.

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