



W.P.(MD)No.19966 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.08.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.19966 of 2024

K.Jamruth

Represented by the Power of Attorney

N.Mohamed Aboobacker Siddiq

... Petitioner

Vs.

1.The Deputy General Manager,
Indian Bank Main Branch,
Jeni Plaza, Cantonment,
Trichy District.

2.The Chief Manager,
Indian Bank, Main Branch,
Jeni Plaza, Cantonment,
Trichy District.

3.The Branch Manager,
Indian Bank,
Thamipatti,
Trichy District.

4.V.Ramamoorthy

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to take actual possession of the property in Survey No.18/3 in Door No.22B, Anthonyiar Kovil Street, Subramaniyapuram, Kottapattu Village,



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Tiruchirappalli District and to hand over the same to the petitioner within the stipulated time fixed by this Court.

For Petitioner : Mr.S.Satheesh Kumar

For R1 to R3 : Mr.R.Gowrishankar
Standing Counsel

ORDER

This writ petition has been filed to direct the respondents to take actual possession of the property in Survey No.18/3 in Door No. 22B, Anthonyar Kovil Street, Subramaniyapuram, Kottapattu Village, Tiruchirappalli District and to hand over the same to the petitioner within a time frame.

2. By consent of both parties, this writ petition is taken up for disposal at the admission stage itself.

3. Heard both sides and perused the materials available on record.

4. It is the case of the petitioner that the petitioner is the Power-of-Attorney of his principal namely, K.Jamruth. She was a



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successful auction purchaser in the auction sale conducted by the second respondent and sale confirmation letter also given on 16.06.2008; the sale certificate was issued on 02.07.2008 and the sale deed was registered on 14.07.2008. However, the respondent Bank authorities did not hand over the possession. Hence, the petitioner now seeks a direction to the respondents to take actual possession of the property and hand over the same to the petitioner.

5. On perusal of the papers attached in the typeset indicate that the 4th respondent has already filed a suit and an *ex parte* decree was passed in favour of him. However, the civil Court has observed that the decree will not operate an impediment to any kind of proceedings being undertaken by the lawful authority under the SARFAESI Act, 2002. Having issued sale certificate in the year 2008, no steps were taken to recover the possession within 12 years or no application has filed under Sections 13 and 14 of the SARFAESI Act, 2002 to take possession. Being allegedly purchased the property in the year 2008 and allowing the persons to occupy the property hostile to the interest of the person as a matter of right, the petitioner cannot file a writ petition seeking Writ of Mandamus. Whether the writ petitioner's right is still available or has



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been extinguished by operation of law to be tested on factual aspects and the same has to be seen in the competent Civil Court, not in this Writ Court. Hence, it is for the petitioner to approach the appropriate Civil Court to work out his remedy in accordance with law.

6. With the above observation, this writ petition is dismissed.

No Costs.

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NCC : Yes / No
Index : Yes / No
PJL

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