



WEB COPY



Cont.P.No.2023 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2025

CORAM

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

Cont.P.No.2023 of 2024

and

WMP No.35880 of 2023

1.R.Venkatachalam

2.Shabbir Y.Imani

: Petitioners

versus

1.Ramarajan,
Chief Manager,
Indian Bank,
Chiniyampayalam Branch,
1/202, Avinashi Road,
Coimbatore 641 045

2.Srinivas,
Zonal Manager,
Indian Bank,
SAMV Branch,
1st Floor, 31, Variety Hall Road,
Coimbatore 641 001

: Respondents



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Prayer: Petition filed to punish the respondents for their disobedience of the order dated 19.09.2023 in WP No.25414 of 2022.

For Petitioners : Mr.R.Sivakumar

For Respondents : Mr.Jayesh B.Dolia,
Senior Advocate
for M/s.Aiyar and Dolia
Ms.Varsha, N.
for respondents 1 and 2

Ms.R.Pushpalatha,
for Mr.C.Deivasigamani,
for respondent No.4 in WP No.25414/2022

Mr.A.Tamilarasan,
for respondent No.5 in WP No.25414/2022

ORDER

(Order of the Court was made
by the Hon'ble Chief Justice)

This petition accuses respondents 1 and 2 of wilful disobedience of the order dated 19.09.2023 and prays that respondents be punished for contempt.



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2. It will be useful to reproduce the order that was passed on 19.09.2023, and it reads as under:

“IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.25414 of 2022

1. *R.Venkatachalam*
2. *Shabbir Y.Imani* .. *Petitioners*

Vs.

1. *Indian Bank*
Rep. by its Chief Manager
Chiniyampalayam Branch
1/202, Avinashi Road
Coimbatore 641 045.
2. *Indian Bank*
Rep. by its Zonal Manager
SAMV Branch
1st Floor, 31, Variety Hall Road
Coimbatore 641 001.
3. *SBI Factors and Commercial Services Pvt Ltd*
1057, 4th Floor, Jaya Enclave
Avinashi Road
Coimbatore Central
Coimbatore 641 018.
4. *A.Ramalingam*
5. *R.Chandran*
6. *The Sub Registrar*



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*Madukkarai SRO
Gandhi Nagar, Madukkarai
Coimbatore 641 105. .. Respondents*

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the respondents 1 and 2 to execute and register a Rectification deed in respect of the sale certificate vide document No.1007 of 2016 issued to the 5th respondent dated 03.02.2016 excluding petitioner's property measuring extent of 1.26 acres situated at S.F.No.71/9, Malumichampatti Village, Coimbatore South Taluk, which is covered under petitioners' sale deed vide document No.4648/2006 dated 01.11.2006 on the file of the 6th respondent, by considering the petitioners' representation dated 31.05.2022 and 02.06.2022.

*For the Petitioners : Mr.R.Prabakar
For the Respondents : Mr.Jayesh B.Dolia
Senior Counsel
For M/s.Aiyar & Dolia
for Respondents 1 & 2*

*Mr.C.Deivasigamani
for Respondents-4*

*Mrs.R.Anitha
Special Government Pleader
for Respondent-6*

*No appearance -
for Respondents 3 & 5*

ORDER
(Made by the Hon'ble Chief Justice)

We have heard Mr.R.Prabakar, learned counsel for the petitioners, Mr.Jayesh B.Dolia, learned Senior Counsel for M/s. Aiyar & Dolia, for the respondents 1 & 2, Mr.C.Deivasigamani, learned counsel for the fourth respondent and Mrs.R.Anitha, learned Special Government Pleader for the sixth respondent.



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2. Learned counsel for the petitioners submits that the respondents 1 and 2 be directed to execute and register rectification deed in respect of the sale certificate issued vide document No.1007 of 2016 dated 03.02.2016. The same is issued in favour of the fifth respondent.

3. According to the petitioners, the property measuring 1.26 acres situated in S.F.No.71/9, Malumichampatti Village, Coimbatore South Taluk, is wrongly included.

4. Learned counsel for the respondents 1 and 2 accepts that a rectification deed is required to be executed as the mistake has occurred in the registration of sale certificate as well as mortgage. The respondent bank would take steps to execute and register the rectification deed.

5. In view of the aforesaid statement, the writ petition stands disposed of. There will be no order as to costs. W.M.P.No.24393 of 2022 filed for permitting the petitioners to file a single writ petition is allowed and disposed of.

6. W.M.P.No.23018 of 2023 is filed for impleadment. The person seeking impleadment is a legal heir of the fifth respondent. It is submitted that her father has wrongly sold the property. She has already filed a civil suit. It is for the said person to seek necessary relief in the said civil suit. Accordingly, W.M.P.No.23018 of 2023 is closed.”

3. Respondent No.4 in the petition was the borrower/mortgagor and respondent No.5 is the auction purchaser. After the sale was completed in favour of respondent No.5, it came to light that petitioners' property, which was adjacent to the mortgaged property, also came to be sold. Petitioners



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did not even know about it for a very long time. When petitioners realized what had happened they approached this Court by way of the said Writ Petition No.25414 of 2022.

4. As recorded in the order of 19.09.2023, respondents 1 and 2, i.e. the bank, admitted that the property belonging to petitioners was not mortgaged to the bank, and part of the property that was sold to respondent No.5 could not have been sold by the bank and therefore, offered to execute a rectification deed, as the mistake occurred at the bank's side and the same mistake has been recorded in the registration of sale certificate. The bank agreed to take steps to execute and register the rectification deed.

5. In view of the statement that was made, the petition came to be disposed of.

6. As the bank did not execute and register the rectification deed, petitioners moved this contempt petition.



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7. The bank informed the Court that they are ready and willing to execute the rectification deed but that could be done only if the auction purchaser and the original borrower came forward to sign the rectification deed. Therefore, by an order dated 06.01.2025, the borrower and the auction purchaser were added as respondents.

8. The fact that the bank itself has come forward to state that what was sold was something that it could not have been sold, the sale itself would get vitiated. Therefore, the entire sale has to be cancelled and the sale proceeds should be returned to the auction purchaser.

9. Mr.Dolia suggested that the bank is agreeable if auction purchaser is ready to accept the proportion of the sale consideration which he has paid to the extent of the property that the bank could not have sold and that which belongs to petitioners and bank will pay interest for the amount at such rate as the Court may direct.



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10. Mr.Dolia was conscious that respondent No.5, the auction purchaser was also, probably, an innocent victim.

11. Mr.A.Tamilarasan for respondent No.5, left it to the Court to protect the interest of his client and stated that respondent No.5 should be given liberty to sue the bank for damages, if so advised.

12. Ms.R.Pushpalatha appearing for respondent No.4 says that she has no objection if the proportionate amount is repaid to respondent No.5.

13. Therefore, we pass the following order:

(a) Out of the total sale consideration of Rs.77,10,000/- that was paid by respondent No.5 for the property of 2.44¹/₄ acres, bank shall return to respondent No.5 a sum of Rs.39,76,926/- (Rupees Thirty Nine Lakhs Seventy Six Thousand and Nine Hundred and Twenty Six only), being value proportionate to the area of 1.26 acres belonging to petitioners, bearing S.No.71/9.



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(b) Together with this amount of Rs.39,76,926/- (Rupees Thirty Nine Lakh Seventy Six Thousand Nine Hundred and Twenty Six only), bank shall pay interest at the rate of 18% per annum from the date respondent No.5 had paid the full consideration, till the date of payment/realisation.

(c) The bank shall also pay back the proportionate value of stamp duty and registration charges, being Rs.9,02,207/- (Rupees Nine Lakh Two Thousand and Two Hundred Seven only) to respondent No.5 together with interest thereon at 18% per annum from the date of registration until payment/realisation.

(d) In addition, the bank shall also pay a sum of Rs.10,000/- (Rupees Ten Thousand only) as cost, to respondent No.5 and a sum of Rs.25,000/-



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(Rupees Twenty Five Thousand only) to petitioners.

(e) It is open to the bank to recover these monies from the erring officers.

(f) It is open to respondent No.5, if advised, to sue the bank for damages. Rights and contentions of the bank in that regard are kept open.

(g) Bank may claim all these amounts, if permissible under the contract, from respondent No.4, the borrower. To that extent, rights and contentions of the bank as well as respondent No.4, the borrower, are kept open.

(h) In view of the above, respondents 4 and 5, representatives of petitioners and representative of the bank shall remain present in the office of the



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Sub Registrar, Madukkarai SRO, Gandhi Nagar,
Madukkarai, Coimbatore 641 105, respondent
No.6 in WP No.25414 of 2022, on 06.05.2025 at
11 a.m., to execute all documents, including the
mortgage and rectification deed to correct the
position.

(i) If any of the parties do not remain present at
the time and date fixed, the bank's officer is
authorised to sign on behalf of the absentee party.

(j) All payments mentioned above shall be handed
over at the time of executing the documents.

(k) Cost payable for petitioners shall be paid
within one week, by cheque / demand draft /
Banker's cheque, drawn in favour of the Advocate
on record.



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(l) In view of the explanation that was given by the bank that it was unable to comply with the order, though it was ready and willing to comply, we dispose of the petition.

14. In view of the above, WMP No.35880 of 2023 in WP No.25414 of 2022 is closed.

As per the direction of this Court dated 23.04.2025, Ms.Maya, Chief General Manager, (Recovery and Legal), Corporate Office, Chennai, is present in Court. Her presence is recorded.

(K.R.SHRIRAM, C.J.)

(MOHAMMED SHAFFIQ, J.)

24.04.2025

Index : Yes/No
Neutral Citation : Yes/No
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- 1.The Sub Registrar,
Madukkarai SRO,
Gandhi Nagar,
Madukkarai,
Coimbatore 641 105
- 2.The Chief Manager,
Indian Bank,
Chiniyampayalam Branch,
1/202, Avinashi Road,
Coimbatore 641 045
- 3.The Zonal Manager,
Indian Bank,
SAMV Branch,
1st Floor, 31, Variety Hall Road,
Coimbatore 641 001



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THE HON'BLE CHIEF JUSTICE
AND

MOHAMMED SHAFFIQ, J.

(tar)

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