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W.P.No.36024 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2025

CORAM :

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

AND

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.36024 of 2024

P.Senthilkumar

.. Petitioner

VS

The Authorized Officer,
Karur Vysya Bank Limited,
P.B.No.3, 45-46, Car Street,
Salem Main Branch,
Salem-636 001.

.. Respondent

Prayer : Petition under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondent to forthwith handover physical possession of the property situate in Salem District, Salem East Registration District, Salem City, A Division, Ward No.3 land measuring about 1252 square feet as per the description of property, land measuring 1252 square feet as described in Sale Certificate dated 10.8.2022 vide Doc.No.5570 of 2022 in Salem District to the petitioner



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pursuant to the auction purchase and issuance of sale certificate dated 28.7.2022 thereon.

For Petitioner : Ms.N.R.Jasmine Padma

For Respondent : Mr.A.Arun Babu

ORDER

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

The prayer in the petition is limited i.e., to hand over possession of the property, which petitioner had purchased.

2. According to Ms.Jasmine Padma, notwithstanding the order 13.09.2023 passed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the physical possession has not been handed over.

3. A counter-affidavit is filed by respondent bank, through one Mr.S.Krishnan, affirmed on 28.02.2025, in which paragraphs 7 to 10 read as under:



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“7. I submit that the Advocate Commissioner had issued notice to the borrowers on 22.12.2023 intimating them that she was about to take physical possession of the property on 06.01.2024. The Advocate Commissioner also intimated Annadanapatti police station to provide police protection with regard to taking physical possession of the property. However, the police officials did not turn up on the said date to provide police protection in the subject property for taking physical possession. Once again the Advocate Commissioner on 26.04.2024 issued notice to the borrower on 03.05.2024 and the same was also intimated to the Annadanapatti police station. However on the said date also the police officials did not co-operate and hence the physical possession of the property could not be taken by the Advocate Commissioner.

8. I submit that only later it came to light that the police officials did not provide police protection only due to the power and post held by the Co-borrower i.e., Mrs.Kanimozhi and one Mr.Ashok the brother of the borrower Mr.M.Ganesan.

9. I submit that both Mrs.Kanimozhi (ward 54) Co-borrower and Mr.Ashok (ward 52) the brother of the borrower Mr.M.Ganesan were presently sitting Ward Councilors of Salem Municipal Corporation and additionally Mr.Ashok Zonal President of Kodalampatti Salem Municipal Corporation. It is only because of that the police officials failed to support the execution of warrants.

10. I submit that the borrower had also filed M.P.No.1/2024 in CrI.M.P.No.776/2023 before the Hon'ble Chief Judicial Magistrate Salem, for recalling the warrant of the Advocate Commissioner and the same was posted on 12.02.2025. Further the borrower had filed an S.A against the orders of the Hon'ble Chief Judicial Magistrate Salem before the Hon'ble Debt Recovery Tribunal Coimbatore in S.A.No.738/2023 and the said matter is posted on 18.04.2025.”

4. Unless a stay is granted by the Debts Recovery Tribunal, Coimbatore in S.A.No.738 of 2023, the Senior Inspector of the Local Police Station (Annadanapatti Police Station) shall provide enough police



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protection at the time and date to be fixed by the advocate-commissioner to permit the warrant issued on 13.09.2023 to be executed and physical possession handed over to petitioner.

5. Petition is disposed of. There shall be no order as to costs.

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

(MOHAMMED SHAFFIQ J.)

16.04.2025

Index : Yes/No
NC : Yes/No
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To

The Authorized Officer,
Karur Vysya Bank Limited,
P.B.No.3, 45-46, Car Street,
Salem Main Branch,
Salem-636 001.

Copy to:

- 1.The Presiding Officer,
Debts Recovery Tribunal,
Coimbatore.
- 2.The Inspector of Police,
Annadanapatti Police Station.



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THE HON'BLE CHIEF JUSTICE
AND
MOHAMMED SHAFFIQ.J.

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