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WP.No.39385 of 2024

In the High Court of Judicature at Madras

Dated : 02.1.2025

Coram :

The Honourable Ms.Justice P.T.ASHA

Writ Petition No.39385 of 2024

M/s.Reliance Asset Reconstruction
Co.Ltd., rep.by its Assistant
Vice President Mr.P.Prabhu

...Petitioner

Vs

1.The Tahsildar, Taluk Office,
Palladam, Tiruppur-641664.

2.The Revenue Inspector,
Palladam, Tiruppur-641664.

3.The Village Administrative
Officer, Semmipalayam,
Tiruppur-641662.

4.The Superintendent of Police,
Palladam Road, Tiruppur District.
641604.

5.The Deputy Superintendent of
Police, Kovai Main Road,
Palladam Road, Tiruppur District.
641664.

6.The Inspector of Police,
Palladam Police Station,
Palladam, Tiruppur District.
641664.

...Respondents

PETITION under Article 226 of The Constitution of India praying
for the issuance of a Writ of Mandamus directing respondents 1 to 3 to



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consider the representation dated 26.9.2024 within a stipulated time frame and to depute a town surveyor to survey the above mentioned property with appropriate police protection.

For Petitioner : Mr.Gautam S.Raman
For Respondents : Mr.A.Selvendran, SGP

ORDER

Seeking a direction to respondents 1 to 3 to consider the representation dated 26.9.2024 for conducting a survey pertaining to punja land with buildings in S.No.98/1 measuring 4.89 acres, Semmipalayam Village, Palladam Taluk, Tiruppur District (subject property) with police protection, the petitioner is before this Court.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader accepting notice for the respondents.

3. The case of the petitioner is as follows :

(i) One M/s.Sivaganesh Textiles represented by its proprietor - Mr.A.Ramasamy (borrower) availed certain credit facilities from M/s.Lakshmi Vilas Bank now known as M/s.DBS Bank (secured creditor). For availing the credit facilities, the borrower executed a memorandum of deposit of title deeds dated 07.12.2010 and



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deposited the title deeds pertaining to subject property.

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(ii) Later, the borrower committed default in making repayments and therefore, the loan account was classified as a non performing asset on 30.12.2011. Pursuant to that, the secured creditor initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 by issuing the notices under Section 13(2) on 23.7.2012 and Section 13(4) on 02.1.2013 to both the borrower and the guarantor. Thereafter, the secured creditor assigned the loan account to the petitioner and by virtue of the assignment agreement dated 12.11.2013, the petitioner stepped into the shoes of the secured creditor.

(iii) Despite taking symbolic possession on 02.1.2013, the borrower and the guarantor evaded handing over the physical possession of the subject property. Further, at the instance of the petitioner by filing an application under Section 14 of the said Act, an advocate commissioner was appointed pursuant to the order dated 29.11.2022 passed in CrI.M.P.No.12629 of 2022 on the file of the learned Chief Judicial Magistrate, Tiruppur.

(iv) On 11.5.2024, the petitioner and the advocate commissioner



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executed the said order dated 29.11.2022 with the assistance of police and took physical possession of the subject property. At that time, the said Mr.A.Ramasamy claimed that he is owning 50 cents of land, which was not mortgaged to the petitioner and that it is lying within the mortgaged property. When the advocate commissioner went to the subject property along with the surveyor on 24.9.2024 in order to conduct a survey and demarcate the mortgaged property, the said Mr.A.Ramasamy raised objections and obstructed the surveyor from entering into the subject property. Hence, the advocate commissioner sent a representation dated 26.9.2024 to respondents to depute a town surveyor to survey the subject property. However, no action has been taken on the same. Hence the writ petition.

4. Considering the facts and circumstances of the case, the writ petition is allowed and a Mandamus is issued to the first respondent to consider the said representation of the Advocate Commissioner dated 26.9.2024 to conduct a survey in respect of the subject property and demarcate its boundaries. The first respondent shall assist the Advocate Commissioner in this regard. In case of any written or oral objections being received by the 1st respondent; he shall hold an enquiry and pass appropriate orders within a period of 12 weeks from the date of receipt of a copy of this order. If there is any disturbance



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while conducting the survey, the first respondent can take the assistance of respondents 4 to 6 for necessary police protection. No costs.

02.1.2025

To

- 1.The Tahsildar, Taluk Office,
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- 2.The Revenue Inspector,
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- 3.The Village Administrative
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