

WP(MD). No.2496 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 20.06.2025

CORAM

**THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HON'BLE MRS.JUSTICE S.SRIMATHY**

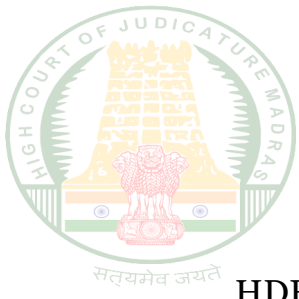
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P.Thakkarai Peer Muhammed
S/o.Peer Muhammed,
No.33 R.P.Melaputhumanai Street,
Pettai,
Tirunelveli District.

... Petitioner

Vs

- 1.The District Registrar,
District Registrar Office,
Palayamkottai,
Tirunelveli District.
- 2.The Sub Registrar,
Pettai Sub Registrar Officer,
Pettai,
Tirunelveli District.
- 3.The Regional Manager /
Authorized Officer,
HDFC Bank Limited,
Branch Office,
Thagur Theater Road,
P.B.No.2288, Vazhuthacaud,
Thiruvananthapuram,
State of Kerala-695 010.
- 4.The Branch Manager /



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Authorized Officer,
HDFC Bank Limited,
Palayamkottai Branch Office,
Raja Towers, Palayamkottai Bus
Stand Opposite,
Tirunelveli District-627 002.

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 3 and 4 to return back the auction bid / sale price amount to the petitioner for a sum of Rs.30,01,000/- with accrued interest and miscellaneous expenses of Rs.4,05,255/- (Total Rs.34,06,255) paid by the petitioner based on the E-Auction sale notice, dated 24.08.2023 under SARFAESI Act for the auction property in an extent of 5.15 cents and 1.87 cents of Survey No.937/1A situated at Town Survey Ward No.2, Block No.9, 2nd North Street, Melaputhumanai, Rahmaniya Pallivasal, Tirunelveli District and by considering the petitioner's representation, dated 20.01.2024 within the time stipulated by this Court.

For Petitioner : Mr.I.Pinaygash
For R-1 & R-2 : Mr.D.Sasikumar
Additional Government Pleader
For R-3 & R-4 : Mr.N.S.Karthikeyan

ORDER

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



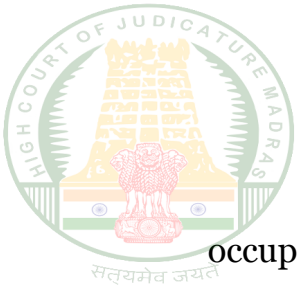
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Petitioner has approached this Court saying that though he was a successful bidder in e-auction conducted by the Respondent No.3 and was also handed over possession of the property, when he went to register the property, he was informed that there was already an encumbrance by way of a judicial order of injunction passed by the Principal Sub Judge, Tirunelveli, in Execution Petition No.107 of 2012 in O.S.No.73 of 2007.

2. Counsel for the petitioner states that this injunction order was not informed to petitioner by the Bank.

3. Mr.N.S.Karthikeyan, counsel appearing for the Bank, states that the Bank was not aware about this order. Counsel states that they do not have the details of the order, but the encumbrance by way of the said judicial order has been noted by the Registration Department, as can be seen from the encumbrance certificate issued by them.

4. Counsel for petitioner states that the Bank should therefore be directed to return the money. He further states that petitioner is in



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occupation of the premises and within one week of receiving the money,
the premises will be handed over.

5. Shri N.S.Karthikeyan, counsel for the Bank, states that the Court may pass appropriate orders.

6. The fact is that sale has been proceeded with and concluded when there was an injunction order passed by the learned Principal Sub Judge, Tirunelveli, as noted in the encumbrance certificate. Therefore, the sale itself could not have been conducted.

7. In these circumstances, we direct petitioner to hand over peaceful and vacant possession of the premises to the Bank/Respondent Nos.3 and 4, within one week of receiving the consideration of Rs.30,01,000/- (Rupees Thirty Lakhs and One Thousand only). He shall also hand over the sale certificate for cancellation. The Bank shall pay over the money within one week from today.

8. Shri N.S.Karthikeyan, says that two weeks be given. Accordingly, two weeks given.



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

(S.SRIMATHY, J.)

20.06.2025

NCC : Yes/No

Index : Yes/No

LR/Sm



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ORDER IN
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