

W.P(MD)No.8143 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2025

WEB COPY

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No. 8143 of 2024

and

W.M.P(MD)Nos.7351, 7352 & 7353 of 2024

1. M.Mathivanan

2. M.Kamalakannan

... Petitioners

Vs

1. The Collector,
Collector Office,
Madurai, Madurai District.

2. The Revenue Divisional Officer,
Revenue Divisional Office,
Thirumangalam,
Madurai District.

3. The Tahsildar,
Taluk Office,
Thirupparankundram,
Madurai District..

4. The Sub Registrar,
Sub Registrar Office,
Thirupparankundram,
Madurai District.

5. M.Susilarani @ Maithili Susilarani

6. K.Murugan

... Respondents



W.P(MD)No.8143 of 2024

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a *Writ of Certiorari* calling for the records relating to the Impugned Order in Ni.Mu/A4/136/224 dated 20.02.2024 passed by the 2nd respondent with regard to property admeasuring 1 Acre and 23 Cents at Survey No.11/2, Thanakkankulam Village , Thirupprankundram Taluk, Madurai District and quash the same.

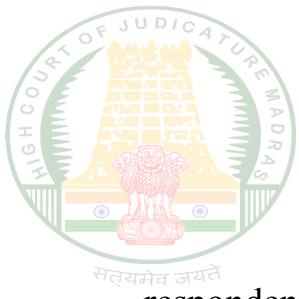
For Petitioner : M/s.Rajesh Saravanan

For Respondents : Mr.S.Kameshwaran,
Government Advocate, for R-1 to R-5
Mr.R. Aravindan, for R-5 & R-6

ORDER

The present Writ Petition has been filed for the issuance of a *Writ of Certiorari* to quash the Impugned Order dated 20.02.2024 passed by the 2nd respondent.

2. The petitioners are brothers and they have purchased the property in S.No. 11/2 through an auction conducted by the Indian Bank under SARFAESI proceedings. The 5th and 6th respondents are the original owners of the property and had borrowed a loan from the Indian Bank. The 6th respondent also stood as a guarantor for the said loan. Due to default in repayment, the Bank initiated proceedings under SARFAESI against the borrower. When the auction was conducted, the petitioners purchased the property. After the purchase, the patta was mutated in their names, and the sale deed was registered in the year 2006.



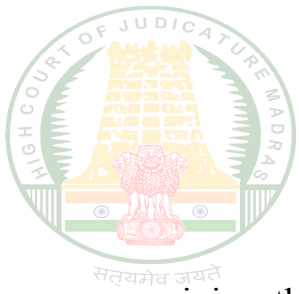
W.P(MD)No.8143 of 2024

3. In the meanwhile, respondents 5 and 6 approached the 2nd respondent and had changed the patta in the name of the 5th respondent which is reflected in the impugned order in the present proceedings.

4. The contention of the petitioners is that the patta was changed in the name of the 5th respondent without issuing any notice to them.

5. The contention of the respondents 5 and 6 are that they are the borrower and guarantor. However, the auction sale was conducted without issuing proper notice and without following the prescribed procedures. Therefore, the sale is liable to be declared a nullity, as the Bank did not comply with the required legal process. Further the respondents 5 and 6 lodged a police complaint against the petitioners, which was registered as Crime No. 447 of 2015. The petitioners approached this Court seeking to quash the First Information Report in CrI.O.P(MD) No. 6022 of 2024, but the same was dismissed on 24.03.2025.

6. The learned Government Advocate appearing for the official respondents submitted that, before changing the patta to the name of the 5th respondent, notice was issued by the 1st respondent, however, the same was returned unserved.



W.P(MD)No.8143 of 2024

7. After hearing the rival submissions, this Court is of the considered opinion that, although the official respondents had issued notice, the same was returned. It is evident that the petitioners did not refuse to receive the notice, rather, it was simply returned with the endorsement 'left the place.' However, the respondents did not take any further steps to serve notice on the petitioners through other methods. Since the notice was not refused, service cannot be deemed to be completed. Therefore, this Court is of the considered opinion that there has been a violation of the principles of natural justice, as the order was passed without properly issuing notice to the petitioners.

8. The contention of the 5th and 6th respondents is that the sale was conducted without following the proper procedures. It is seen that the First Information Report was registered against the petitioners alone, alleging that they had committed fraud. The Bank was not impleaded as a party. The criminal proceedings ought to be conducted separately and will not be an impediment to the present writ petition, as they pertain to a separate cause arising out of the auction.

9. Taking all these facts into consideration, this Court is of the considered opinion that any objection raised by respondents 5 and 6 cannot be entertained in this writ petition. However, respondents 5 and 6 are at liberty to



W.P(MD)No.8143 of 2024

proceed with the criminal case in accordance with law and also at liberty to file civil suit, if so advised and the same ought to be considered in accordance with law.

10. Accordingly, this Writ Petition is allowed and the Impugned Order dated 20.02.2024 passed by the 2nd respondent is hereby quashed. The patta shall be changed in the name of the writ petitioners itself. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of the order. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

NCC : Yes / No
Index : Yes / No
Internet : Yes

08.07.2025

KSA

1. The Collector,
Collector Office,
Madurai, Madurai District.
2. The Revenue Divisional Officer,
Revenue Divisional Office,
Thirumangalam, Madurai District.
3. The Tahsildar,
Taluk Office, Thirupparankundram,
Madurai District.
4. The Sub Registrar,
Sub Registrar Office,
Thirupparankundram, Madurai District.



WEB COPY



W.P(MD)No.8143 of 2024

S.SRIMATHY, J.

KSA

**ORDER MADE IN
W.P(MD)No.8143 of 2024**

DATED : 08.07.2025