

W.P.(MD).No.10056 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.07.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD) No.10056 of 2024

D.Balan

... Petitioner

Vs.

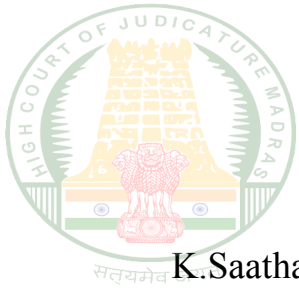
1.The Chairman / Managing Director,
Head Office, Indian Bank,
No.66, Rajaji Salai,
Chennai.

2.The Deputy General Manager,
Zonal Office, Indian Bank,
2nd Floor, Jenne Plaza,
Cantonment, Trichy,
Trichy District.

3.The Senior Manager,
Indian Bank,
Sundar Nagar, Trichy,
Trichy District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to hand over physical possession of property admeasuring 2700 Sq.Ft with building constructed thereon bearing Door No.12, in Plot No. 107, situated at Survey No. 17/2, 17/8, 17/9, 17/10, 17/11, 17/12, 17/13, 17/14, 18/4, 19/1, 19/2, 19/3 and 19/4 (more particularly at S.No.19/2), Indira Nagar, K.Saathanur Village, Trichy Corporation, Trichy East Taluk, Trichy Revenue District,



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K.Saathaur SRO, Trichy Registration District to the petitioner immediately or to refund the amount of Rs.56,25,000/- along with commercial interest calculated from the date of sale with compensation of Rs.20,00,000/- on the basis of representation made by this petitioner, dated 29.09.2023.

For Petitioner : Mr.K.Mahendran

For Respondents : Mr.C.Karthick
Standing Counsel

ORDER

This Writ Petition is disposed of at the time of admission after hearing the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

2. This petition has been filed by the petitioner seeking a Mandamus to direct the respondents to hand over physical possession of property admeasuring 2700 Sq.Ft with building constructed thereon bearing Door No.12, in Plot No. 107, situated at Survey No. 17/2, 17/8, 17/9, 17/10, 17/11, 17/12, 17/13, 17/14, 18/4, 19/1, 19/2, 19/3 and 19/4 (more particularly at S.No.19/2), Indira Nagar, K.Saathanur Village, Trichy Corporation, Trichy East Taluk, Trichy Revenue District, K.Saathaur SRO, Trichy Registration District to the petitioner immediately or to refund the amount of Rs.56,25,000/- along with



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commercial interest calculated from the date of sale with compensation of Rs.20,00,000/- on the basis of representation made by this petitioner, dated 29.09.2023.

3. It appears that the petitioner has purchased the property in an auction conducted before the DRT. The property belonged to a borrower, who had defaulted. The petitioner has paid Rs.56,25,000/- and has thus purchased the property 20.04.2016. Thereafter, a sale certificate was also issued to the petitioner on 03.06.2016, which has been registered. However, the petitioner has not been able to take the possession of the property.

4. It appears that the borrower's brother has also incidentally filed a S.A.No.349 of 2016 under the provision of SARFAESI Act 2002 read with the relevant rules, wherein the petitioner has been arrayed as the fourth respondent. It appears that petitioner has not appeared and therefore, petitioner has also been set *ex-parte* in S.A.No.349 of 2016.

5. The learned counsel for the respondents on the other hand would submit that since the case is pending in S.A.No.349 of 2016 and therefore, the

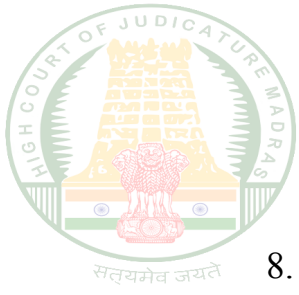


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respondents Bank is neither in a position to give a clear possession of the property nor refund the amount to the petitioner that was paid by the petitioner pursuant to the auction purchase made on 20.04.2016.

6. In my view, there is no justification on the part of the respondents Bank in retaining the amount without handing over the clear possession of the property to the petitioner. In fact, the Hon'ble Division Bench of this Court has come down heavily on Tamil Nadu Mercantile Bank Limited in its order in the case of *M/s.Hari & Keerti Engineers Private Limited, Vs. Tamil Nadu Mercantile Bank Limited (2024 (2) TLNJ 63 (Civil))*, where the Court has also ordered Rs.2,00,000/- as cost apart from interest at the rate of 18% from the date of payment till the date of repayment.

7. There are no other extenuating circumstances, except for the pendency of S.A.No.349 of 2016 before the DRT, filed at the instance of the borrower's brother. The petitioner cannot be penalized, if the respondents Bank is unable to give a clear title and possession to the property merely because proceedings are pending before the DRT at the behest of the brother of the borrower.



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8. Considering the same, there shall be a direction to the respondents Bank to consider the petitioner's representation dated 29-09-2023 for either handing over clear possession of the property to the petitioner within a period of 30 days from date of receipt of copy of this order or in the alternative, refund the entire amount that was paid by the petitioner towards the purchase value, registration charges, stamp duty charges together with interest at the rate of 12%. It is made clear that in case, the respondents fails to comply with the above stipulations, the respondents shall also be liable to pay a further cost of Rs.2,00,000/- to Adayar Cancer Institute, Chennai.

9. With the above directions, this Writ Petition is disposed of. No costs.

30.07.2025

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

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C.SARAVANAN, J.

Indu

To

- 1.The Chairman / Managing Director,
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No.66, Rajaji Salai,
Chennai.
- 2.The Deputy General Manager,
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2nd Floor, Jenne Plaza,
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