

W.P.(MD)No.11040 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2025

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THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.11040 of 2023

M/s.Karur Vysya Bank,
Asset Recovery Branch,
Madurai Melur Main Road,
Mattuthavani,
Madurai,
Represented by its Authorised Officer,
Mr.Dhandapani.

... Petitioner

Vs.

- 1.The Thasildhar,
Thirumayam Taluk,
Pudukottai District.
- 2.The Taluk Head Surveyor,
Thasildhar Office,
Thirumayam Taluk,
Pudkottai District.
- 3.The Inspector of Police,
Panaiyampatti Police Station,
Pudukottai District.
- 4.M/s.KSK Industries Private Limied,
Represented by K.Senthilkumar,
S/o.R.M.Karuppiyah,
- 5.K.Vijayakumari

... Respondents



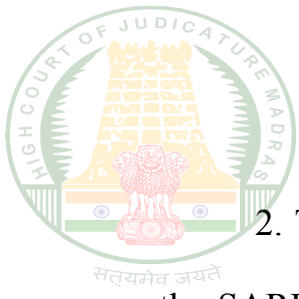
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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the official respondents to survey and demarcate the boundaries for S.No.27/5 measuring to an extent of 0.85.0 hectare and S.No.27/4B1 measuring to an extent of 0.53.5 hectare situated at Virachillai Bit - I Village, Thirumayam Taluk, Pudukottai District, after affording due opportunity to the petitioner by considering the payment remitted on 16.08.2022 and representation, dated 21.03.2023.

For Petitioner	: Mr.V.Sukumar
For R1 & R2	: Mr.A.Kannan Additional Government Pleader
For R3	: Mr.M.Gnanasekaran Government Advocate
For R4	: Mr.R.Haguman

ORDER

The writ petition has been filed for a direction to the official respondents to survey and demarcate the boundaries for S.Nos.27/5 and 27/4B1, to an extent of 0.85.0 hectare and 0.53.5 hectare, respectively at Virachillai Bit - I Village, Thirumayam Taluk, Pudukottai District, after affording due opportunity to the petitioner, by considering the payment remitted on 16.08.2022 and representation, dated 21.03.2023.



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2. The subject property was a secured asset of the petitioner Bank under the SARFAESI Act. As the respondents 4 and 5 failed to repay the loan, their account was classified as Non-Performing Asset. The petitioner Bank issued a demand notice on 03.10.2019 under Section 13(2) of the SARFAESI Act to the private respondents calling upon them to repay the outstanding dues and settle the loan account. The petitioner Bank also issued a possession notice on 07.03.2020 under Section 13 (4) of SARFAESI Act to the respondents 4 and 5 for a sum of Rs.5,85,87,081.58/-. In spite of the said notices, as the loan was not settled, the petitioner Bank filed an application under Section 14 of the SARFAESI Act before the Chief Judicial Magistrate, Pudukottai vide CrI.M.P.No.349 of 2022. The Chief Judicial Magistrate, Pudukottai, passed an order on 16.05.2022, appointing an Advocate Commissioner to take physical possession of the secured assets and further directed the Advocate Commissioner to mark appropriate inventories. On 17.06.2022, the Advocate Commissioner executed the warrant of the Chief Judicial Magistrate, Pudukottai and took the physical possession of the subject property in the presence of the third respondent. However, the respondents 4 and 5 trespassed into the secured asset/subject property by closing the pathway of the subject property. As there was serious threat to the subject property, the petitioner Bank in order to secure and protect the same filed an application for survey and demarcation along with necessary fee on 16.09.2022. As no action was taken by the respondents, the



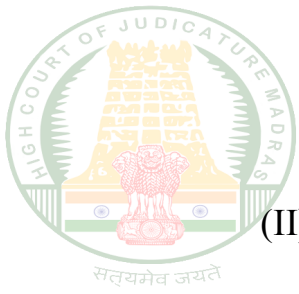
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petitioner sent a representation to the official respondents on 21.03.2023 and as even thereafter, no action was taken by the respondents, the petitioner filed the above writ petition for the aforesaid relief.

3. With the consent of both learned counsels, this writ petition is taken for final disposal. If any person is aggrieved by this order, it is open to them to move this Court either by way of review or recall of this order, if there is any suppression of material facts by the petitioner.

4. This Court in W.P(MD)No.12676 of 2024, dated 14.06.2024 issued certain directions for considering the application for survey and fixing of boundary. Following the said order, the following directions are issued:

(I) The petitioner is directed to submit his / her application in on-line mode. The survey authority will scrutinize if the application submitted by the petitioner is in order. Patta need not be in the name of the applicant. If patta is in the name of the vendor and mutation has not been effected, still the application can be considered.



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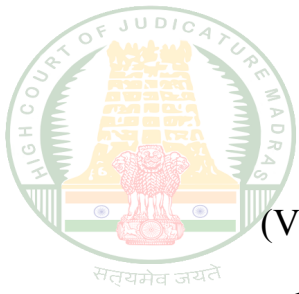
(II) The petitioner will have to enclose all the relevant documents such as patta. The applicant must have individual patta in his / her name. If he / she is having joint patta, co-pattadars must give their consent for conducting survey.

(III) The survey authority will issue notice to the writ petitioner as well as the adjacent land owners and also to the interested persons, if any.

(IV) Enquiry shall be held. During enquiry, objections raised by the adjacent land owners / interested persons shall be considered.

(V) If according to the jurisdictional authority, the objections are without any basis, the same shall be overruled and the objectors shall be informed accordingly. But the survey will be conducted only after a period of six weeks so that the objector can move the concerned Court for injunction. If before the proposed date of survey, the objector is unable to obtain any injunction order, the survey can very well go on.

(VI) It is open to the parties to serve memo of instructions to the surveyor at the time of conducting survey. The same will be borne in mind. While it cannot be binding on the surveyor, the same will be taken note of.



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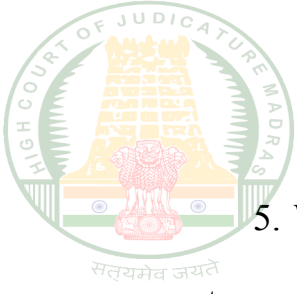
(VII) If the jurisdictional authority finds objections to be having substance, then, he shall call upon the applicant to move the jurisdictional civil Court for agitating his rights.

(VIII) If required, the survey authority is empowered to seek aid of the jurisdictional police and the jurisdictional police are mandated to grant police protection.

(IX) It is made clear that at the end of the survey exercise, survey stones alone can be installed. The exercise of survey and demarcation undertaken pursuant to the direction of this Court can never result in dispossession of any party. If the petitioner wants to put up fencing and if there is any objection from any private party, fencing can be put up only after the petitioner obtains decree from the jurisdictional Civil Court.

(X) The survey authority will conclude the entire exercise one way or the other **within a period of 12 weeks** after service of notice on the interested persons.

(XI) A copy of the survey report along with sketch will be served on the parties. No costs.



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5. With the aforesaid directions, the writ petition stands disposed of. No

costs.

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NCC:yes/no
Index:yes/no
Internet:yes/no
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To:

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Pudukottai District.
- 2.The Taluk Head Surveyor,
Thasildhar Office,
Thirumayam Taluk,
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- 3.The Inspector of Police,
Panaiyampatti Police Station,
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- 4.M/s.KSK Industries Private Limied,
Represented by K.Senthilkumar,
S/o.R.M.Karuppiah,

N.MALA, J.



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