



W.P(MD)No.34490 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.11.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.34490 of 2025

The Indian Bank,
Represented by its
Authorized Officer / Branch Manager,
Theni Branch,
Theni,
Theni District.

... Petitioner

Vs.

1.The Sub Registrar,
Theni Sub Registrar Office,
Theni,
Theni District.

2.Sannasi

3.S.Muruga Ganesan

4.B.Krishnamoorthy

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Mandamus directing the first
respondent to delete the entry made over the attachment of the 3rd



W.P(MD)No.34490 of 2025

Respondent dated 22.02.2025 in Document No.9/2025 in respect of the Punja lands in S.No.1361/1A to the extent of 33 Cents and in S.No. 1362/2 to the extent of 2 Acres 11 Cents situated in Unjampatti Village, Theni Taluk, Theni District and consequently register the Sale Certificate dated 18.09.2025 presented by the second Respondent.

For Petitioner : Mr.R.Gowri Shankar
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader
for R.1

ORDER

Heard both sides.

2.The fourth respondent mortgaged the petition mentioned property in favour of the writ petitioner and availed loan in the year 2023. The writ petitioner thus became a secured creditor. The fourth respondent committed default. Therefore, action under SARFAESI Act was taken and the property was brought to sale and sold on 08.05.2025. The property was sold for a sum of Rs.1,00,10,000 /- (Rupees One Crore Ten Thousand only). The dues payable to the bank was quantified at Rs. 1,88,62,964/- (One Crore Eighty Eight Lakhs Sixty Two Thousand Nine
2/6



W.P(MD)No.34490 of 2025

Hundred and Sixty Four only) as on 19.03.2024. The sale certificate was issued on 18.09.2025 in favour of the second respondent. In the meanwhile, the third respondent filed arbitration case in A.R.B(MD)No. 05 of 2024 before the Madras High Court Empaneled Sole Arbitrator for recovering a sum of Rs.1,25,00,000/- (One Crore Twenty Five Lakhs only) with interest. The arbitration case was filed on pro-note and cheque. The petition mentioned property was attached vide order dated 22.02.2025 in I.A.No.01 of 2024. This writ petition has been filed by the Bank / secured creditor for deleting the offending entry of attachment.

3. The learned counsel appearing for the Bank draws my attention to Section 26 E of the SARFAESI Act, 2002. It reads as follows:-

"26E. Priority to secured creditors. - Notwithstanding anything contained in any other law for the time being in force, after the registration of security interest, the debts due to any secured creditor shall be paid in priority over all other debts and all revenues, taxes, cesses and other rates payable to the Central Government or State Government or local authority Explanation. - For the purposes of this



W.P(MD)No.34490 of 2025

section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), in cases where insolvency or bankruptcy proceedings are pending in respect of secured assets of the borrower, priority to secured creditors in payment of debt shall be subject to the provisions of that Code."

4. In the case on hand, the mortgage was created in the year 2023. Attachment was made only in 2025. Therefore, in view of Section 26 E of the Act, right of the secured creditor will prevail over the subsequent attachment. The second respondent who was the subsequent purchaser can very well deal with the property even if the attachment made at the instance of the third respondent is holding good. In any event, in order to clear any ambiguity, I hold that the attachment made at the instance of the third respondent in I.A.No.01 of 2024 in A.R.B(MD).No.05 of 2024 on the file of the Madras High Court Empaneled Sole Arbitrator stands vacated forthwith. The first respondent is directed to register this writ order so that the same is duly reflected in the encumbrance register.



W.P(MD)No.34490 of 2025

5. The writ petition is allowed on these terms. No costs.

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

To

The Sub Registrar,
Theni Sub Registrar Office,
Theni,
Theni District.



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W.P(MD)No.34490 of 2025

G.R.SWAMINATHAN, J.

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W.P(MD)No.34490 of 2025

27.11.2025