

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 06.12.2018

CORAM:

THE HON'BLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.28552 of 2018

M/S.Sundaram BNP Paribas Home Finance Limited,
Formerly Known as Sundaram Home Finance Limited,
No.46, Whites Road, Chennai-600 014.
rep.by Authorized officer E.Lenin.

... Petitioner

Vs.

- 1.The Superintendent of Police,
Palladam, Thiruppur District.
- 2.The District Magistrate/Collector
Tiruppur, Tiruppur District.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the first respondent, The Superintendent of Police, Thiruppur to give adequate police force and protection to the Sub Collector Thiruppur in order to execute the second respondent order dated 03.01.2018 in Ref.No.1856/2015/C3 to take over the possession of the property situated at Kumkumapalayam Village, Palladam Taluk.

For Petitioner: Mr.L.Poompavai

For Respondents : Mr.C.Raghavan
Government Advocate (Crl. Side)

ORDER

This petition has been filed seeking for police protection in order to take possession of the property, pursuant to the orders passed under Section 14(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (SRFAESI Act).

2.The petitioner is a financial institution. The petitioner had initiated proceedings under the SRFAESI Act, against the borrower whose account has been declared to be a non-performing asset. The petitioner issued a demand notice under Section 13

(2) of the SRFAESI Act and also issued possession notice under Section 13(4) of the SRFAESI Act. Since there was resistance in taking possession of the property, the petitioner filed a petition under Section 14(1) of the SRFAESI Act, before the District Magistrate/Collector, Thiruppur District, to take over possession of the property.

3.The District Magistrate/Collector, Thiruppur, the second respondent herein by his order dated 03.01.2018, allowed the petition filed by the petitioner and directed the property to be handed over to the authorized officer of the petitioner's company. After passing of this order, the resistance continued and therefore, the petitioner gave various complaints to the District Collector as well as the respondent police, seeking for police protection. However, the said complaints were not acted upon and therefore, the present petition has been filed before this Court seeking for appropriate direction.

4.It is seen from the records that the financial institution has initiated proceedings under the SRFAESI Act. There is already an order passed by the second respondent under Section 14(1) of the SRFAESI Act, permitting the petitioner to take possession of the property. Since there was resistance, the petitioner has sought for police protection. In fact, there is a communication from the Tahsildar, Palladam as well as the second respondent to the Superintendent of Police, Palladam to provide police protection in order to take possession of the property. However, the first respondent has neither acted upon the complaint given by the petitioner nor has acted on the request that was made by the second respondent.

5.The petitioner has pursued the remedy in accordance with the law and as per the procedure prescribed under the SRFAESI Act. There is already an order passed in favour of the petitioner under Section 14(1) of the SRFAESI Act, permitting the petitioner to take possession of the property. The borrower cannot take law into his hands and prevent the petitioner from taking possession of the property. The parties at the best can only approach the concerned Court challenging the action taken by the petitioner's company and he has no right to physically resist the petitioner's company from taking possession of the property after orders have been passed by the concerned Magistrate under Section 14(1) of the SRFAESI Act. The first respondent ought to have taken note of the developments and should have given police protection to the petitioner in order take possession of the property. However, the first respondent has not acted upon the representation made by the petitioner or the request made by the second respondent.

6.This Criminal Original Petition is disposed of with a direction to the first respondent to give adequate police protection to the petitioner in order to execute the order dated 13.01.2018 and to take possession of the property to be handed over to the petitioner. This process shall be completed within a period of two weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1.The Superintendent of Police,
Palladam, Thiruppur District.

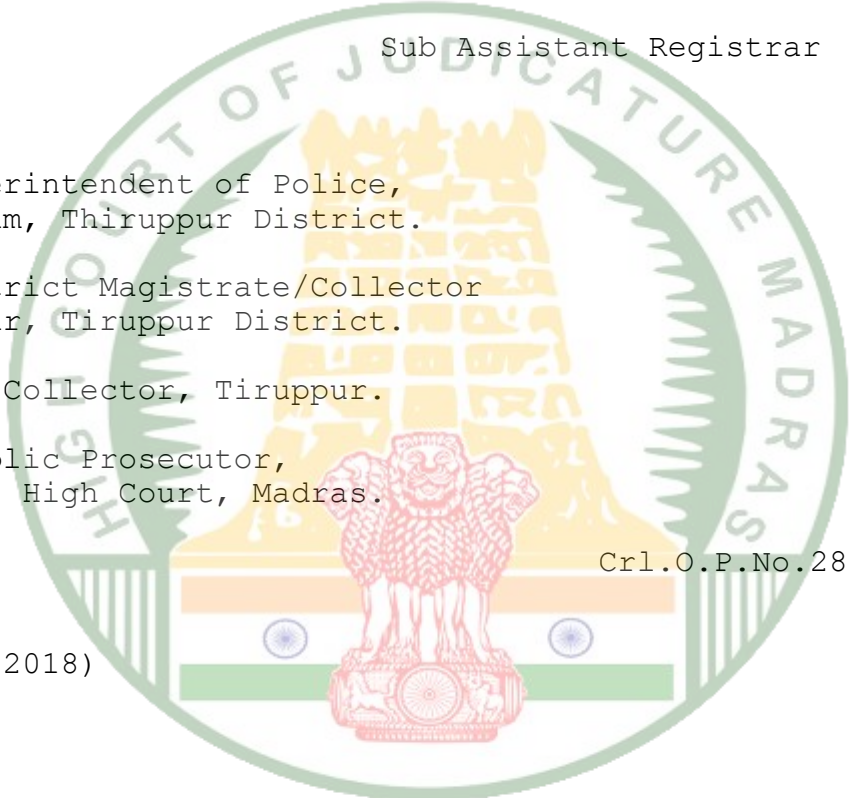
2.The District Magistrate/Collector
Tiruppur, Tiruppur District.

3.The Sub-Collector, Tiruppur.

4. The Public Prosecutor,
Madras High Court, Madras.

Cr1.O.P.No.28552 of 2018

GSP(20/12/2018)

The seal of the Madras High Court is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. Below the gopuram is a red lion capital on a base. The entire emblem is set against a green background with a white border. The text "HIGHER COURT OF JUDICATURE MADRAS" is written in a circular path around the emblem. Below the emblem, the motto "सत्यमेव जयते" is written in Devanagari script.

WEB COPY