

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2019

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.1849 of 2019

P.Balamurugan

... Petitioner

Vs.

1.The Superintendent of Police,
Officer of the Superintendent of Police,
Tiruppur District, Tiruppur.

2.The Inspector of Police,
Alangiam Police Station,
Alangiam, Tiruppur District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to provide adequate police protection for execution of the warrant of handing over of the possession in R.P.No.140 of 2007 dated 16.08.2018 irrespective of the resistance by the decree in O.S. No.389 of 2014.

For Petitioner : Mr.M.Prabaaharan

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This writ petition has been filed seeking for a direction to the respondent police to provide police protection for execution of the warrant of handing over of possession of the property in favour of the petitioner in R.P.No.140 of 2007 dated 16.08.2018.

2.It is seen from records that the subject property was brought for auction sale under the SARFAESI proceedings and the petitioner was the successful bidder. The sale certificate was also executed in favour of the petitioner on 05.02.2018. The same is also reflected in the encumbrance certificate.

3.When the petitioner attempted to take possession of the property, the same was resisted. Therefore, a petition was filed for appointment of Advocate Commissioner for the purpose

of taking possession of the property. An Advocate Commissioner was also appointed by the Recovery Officer by proceedings dated 16.08.2018 to take possession of the property and hand over the same to the petitioner. When the Advocate Commissioner attempted to take possession of the property, the same was resisted by the original owner of the property. Therefore, the present petition has been filed seeking for police protection.

4.The learned counsel for the petitioner submitted that the petitioner being auction purchaser, has become the absolute owner of the property on 05.02.2018, when the sale certificate was executed in favour of the petitioner. Subsequently, the name of the petitioner is also reflected in the revenue records. The learned counsel further submitted that the Recovery Officer of the Debts Recovery Tribunal has already appointed an Advocate Commissioner for taking possession of the property and to hand over the same to the petitioner. Therefore, the original owner does not have any right to resist the same and he can only workout his remedy in the manner known to law.

5.In the facts and circumstances of the case, there shall be a direction to the second respondent to give police protection to the Advocate Commissioner for execution of the warrant of handing over the possession of the property, pursuant to the orders passed by the Recovery Officer of the Debts Recovery Tribunal, dated 16.08.2018.

6.Accordingly, this Writ Petition is allowed. No costs.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

ia/vsg1

To

1. The Superintendent of Police, Tiruppur District, Tiruppur.
2. The Inspector of Police,
Alangiam Police Station,
Alangiam, Tiruppur District.
3. The Public Prosecutor, Madras High Court.

+1cc to Mr.M.Prabaharan, Advocate SR.No.5192

W.P.No.1849 of 2019

GMV (28/01/2019)