

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.OP.No.12107 of 2019

Indian Bank, Saidapet Branch,
Rep by The Branch Manager, S.Ganesan
1, Abdul Razak Street,
Saidapet, Chennai - 600 015.

...Petitioner

Vs.

The Inspector of Police,
R-8 Vadapalani Police Station,
Chennai.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to directing the respondents to consider the representation dated 23.04.2019 and to give police protection to enable the bank to take possession from the trespassers.

For Petitioner : Mr.L.Prabahar

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

ORDER

This petition has been filed seeking for police protection to enable the petitioner bank to prevent the trespassers from illegally occupying the property which is already being a subject matter of sale in this SARFAESI proceedings.

2.It is seen from the records that the petitioner bank had initiated proceedings under SARFAESI Act to bring the mortgaged property for auction sale. The public auction was conducted on 11.03.2010 and the property was sold to the successful bidder. Thereafter, the petitioner bank had approached the Chief Metropolitan Magistrate Court, Egmore under Section 14 of the SARFAESI Act for taking possession of the secured asset. The Chief Metropolitan Magistrate Court, Egmore

by an order dated 13.07.2010 has allowed the petition and appointed an Advocate Commissioner to take possession of the property. Pursuant to the said order, the Advocate Commissioner on the strength of a warrant issued by the Court took physical possession of the property and handed over the same to the Bank on 09.08.2010.

3.The borrower has already challenged the auction sale and the proceedings initiated by the petitioner bank and the same came to be dismissed by the DRT-II, Chennai by an order dated 30.12.2010 and the same was also confirmed by the Debts Recovery Appellate Tribunal by an order dated 16.12.2016.

4.Inspite of the same, the borrower with the help of his men has proceeded to break open the lock and the seal and had trespassed into the property. A complaint was given by the petitioner bank to the respondent police and an FIR was also registered in Cr.No.996/2010. After investigation a final report has also been filed before the XVII Metropolitan Magistrate, Saidapet, Chennai and the same has been taken on file in C.C.No.9879/2010. The said proceedings are pending.

5.In the mean time, a representation was given to the respondent police seeking for police protection to take possession of the property and since no action was taken on the representation, the petitioner bank has approached this Court seeking for appropriate direction.

6.The facts narrated above clearly shows that the Bank has taken possession of the property in accordance with law and the possession has been handed over to the Bank by virtue of an order passed by the Chief Metropolitan Magistrate, Egmore under Section 14 of the SARFAESI Act. The proceedings initiated by the borrower challenging the auction sale was also dismissed and confirmed in Appeal. Therefore, the borrower or any person claiming under him do not have even a semblance right over the property and they cannot be allowed to take law in their own hands and trespass into the property.

7. In view of the above there shall be a direction to the respondent to immediately act upon the complaint dated 23.04.2019 given by the petitioner Bank and give police protection to the petitioner Bank to enable them to take possession of the property. This exercise shall be completed by the respondent police within a period of three weeks from the date of receipt of a copy of this order.

8.In the result, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

jas/av

To

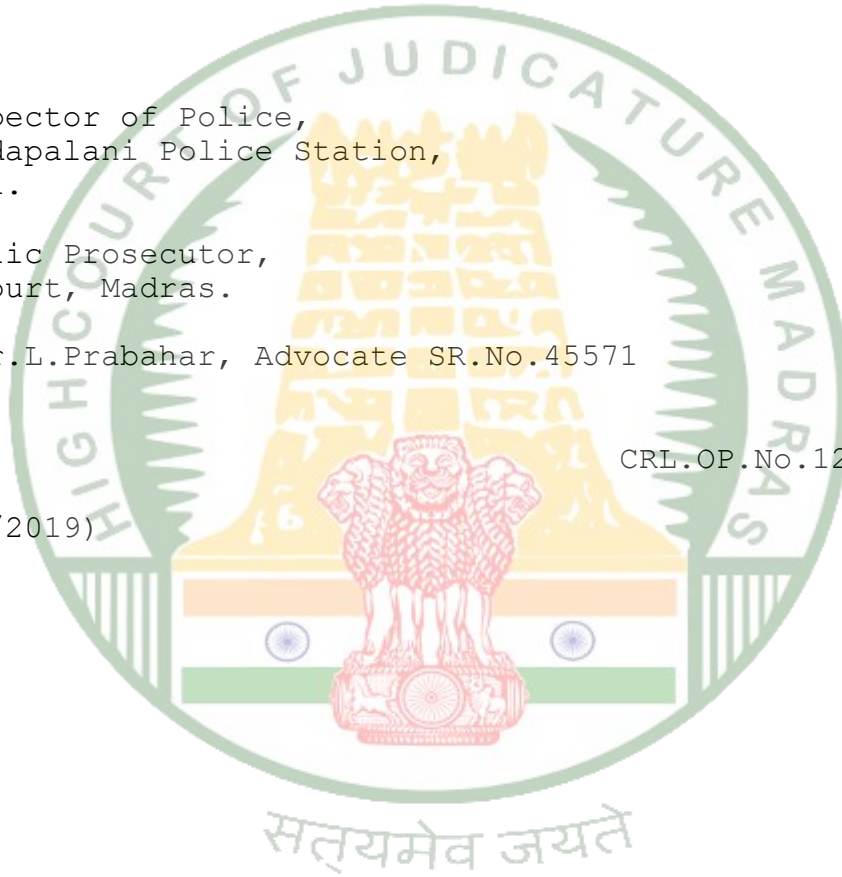
1.The Inspector of Police,
R-8 Vadapalani Police Station,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

+3cc to Mr.L.Prabahar, Advocate SR.No.45571

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KS (CO)
GMY (02/07/2019)



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