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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2023

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.27324 of 2023

M/s.Can Fin Homes Ltd.,
Rep.by its Authorised Officer
Mr.Siranjeevi.M.
Having its Branch Office at:-
Old No.29A, New No.7A
Ground Floor, High School Road
Secretariat Colony
Ambathur
Chennai 600 053.

...Petitioner

-Vs-

The Inspector of Police
Law and Order
Nolambur Police Station
Mogappair East
Chennai 600 037.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondent to give adequate Police Protection to enable the petitioner company to take physical possession of the Mortgaged Property in furtherance of the order dated 2.6.2023 made in CrI.MP.No.305 of 2023, on the file of the Chief Judicial Magistrate, Tiruvallur.

For Petitioner : Mr.S.I.Muthiah

For respondent : Mr.A.Damodaran
Additional Public Prosecutor

**ORDER**

This writ petition has been filed for a direction to the respondent police to provide police protection in order to execute the order passed by the learned Chief Judicial Magistrate, Tiruvallur in CrI.MP.No.305 of 2023, dated 02.06.2023.

2. Heard Mr.S.I.Muthiah, learned counsel for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor for the respondent.

3. The loan facilities were taken from the petitioner and mortgage was created by deposit of title deeds. The borrowers failed to repay the loan amount and hence, their account was declared as "NPA" on 31.01.2020. Thereafter, the petitioner initiated proceedings under the SARFAESI Act, 2002. A demand notice was issued under Section 13(2) of the Act and since the amount was not paid, steps were taken to take possession of the property that was given as security.

4. The petitioner filed an application under Section 14(1) and (2) of the SARFAESI Act for taking possession of the secured assets before the Chief Judicial Magistrate, Tiruvallur in CrI.MP.No.305 of 2023. This application came to be allowed by an order dated 2.6.2023 and an Advocate commissioner was appointed to inspect the property and to take inventory and thereafter, to take possession of the property. Even while passing this



to provide police protection while taking possession of the assets.

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5. The grievance of the petitioner is that the Advocate Commissioner had approached the respondent police several times seeking for police protection and there was no response and accordingly, the order passed in CrI.MP.No.305 of 2023 is not able to be executed till date. Hence, the present petition has been filed before this Court.

6. Taking into consideration the facts and circumstances of the case and the order passed by the learned Chief Judicial Magistrate, Tiruvallur, in CrI.MP.No.305 of 2023, there shall be a direction to the respondent police to provide sufficient police protection to the Advocate Commissioner in order to enable the Advocate Commissioner to execute the order passed in CrI.MP.No.305 of 2023 dated 02.06.2023 and take the inventory and possession of the subject property. The Advocate Commissioner shall make a specific request to the respondent along with a copy of this order.

7. This writ petition is disposed of in the above terms. No costs.

19.09.2023

Index : Yes/No
Internet : Yes/No
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N.ANAND VENKATESH, J.
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To

- 1.The Inspector of Police
Law and Order
Nolambur Police Station
Mogappair East
Chennai 600 037.
- 2.The Chief Judicial Magistrate,
Tiruvallur.
- 3.The Public Prosecutor,
High Court, Madras.

W.P.No.27324 of 2023

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