



W.P(MD)No.13241 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

W.P(MD)No.13241 of 2023

M/s.Can Fin Homes Ltd.,
Rep. by its Authorised Officers,
Mr.Shiva VR.
Having it Branch Office At
Ground Floor,
Shakthi Towers,
564/1, 12 th Cross Street,
Anna Nagar,
Madurai-625 020.

... Petitioner

Vs.

1.The Inspector of Police Cum Station House Officer,
Law & Order,
Nagamalaipudukottai Police Station,
Madurai-625 019.

2.The Superintendent of Police,
Camp Office,
Race Course,
Natham Road,
Reserve Line Area,
Madurai-625 002.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to give adequate police protection to enable the petitioner company to take physical possession of the Mortgaged Property in furtherance of the Warrant dated 25.04.2023 made in Cr.M.P.No.129 of 2023 on the file of the Chief Judicial Magistrate, Madurai within a time frame fixed by this Court.

For Petitioner : Mr.I.Muthiah
For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor

ORDER

This writ petitioner filed this Writ Petition seeking for issuance of Writ of Mandamus, directing the respondents to give adequate police protection to enable the petitioner company to take physical possession of the Mortgaged Property in furtherance of the Warrant dated 25.04.2023 made in Cr.M.P.No.129 of 2023 on the file of the Chief Judicial Magistrate, Madurai within a time frame fixed by this Court.

2. The learned counsel for the petitioner submitted that the petitioner's company is a Non-Banking Finance Company incorporated



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under the Companies Act, 1913. Even on receipt of the notice, the borrowers had not come forward to settle the dues to the petitioner company. Thereafter, the petitioner company has issued possession notice dated 22.12.2021 to the borrowers under Section 13(4) of the SARFAESI Act, 2002 and took symbolic possession of the property. There was no response from the borrowers. Thereafter, the petitioner company has filed an application in Cr.M.P.No.129 of 2023 on the file of the Chief Judicial Magistrate, Madurai and the same was allowed. Advocate Commissioner was appointed to take physical possession of the mortgaged property from the borrowers and to handed over the same to the petitioner company. The Advocate Commissioner had fixed the date of execution of warrant and he made representation to the first respondent to offer assistance to execute the warrant. But no adequate protection was offered. Therefore, the petitioner sent a representation to the respondents seeking adequate police protection for executing the warrant and the same was not considered by the respondent police so far. Hence, the present petition has been field.



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3. The second respondent is present before this Court and he has stated that the Commissioner has granted time to the borrowers to settle the dues, only on that ground, the respondent police could not assist.

4. In view of the above submission, the petitioner is directed to approach the first respondent once again and to give a fresh representation. After receiving the fresh representation from the petitioner, the first respondent shall consider the same and thereafter, to take further action.

With the above directions, this Writ Petition is disposed of. No Costs.

08.06.2023

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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To

WEB COPY

1. The Inspector of Police Cum Station House Officer,
Law & Order,
Nagamalaipudukottai Police Station,
Madurai-625 019.
2. The Superintendent of Police,
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Race Course,
Natham Road,
Reserve Line Area,
Madurai-625 002.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



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G.ILANGO VAN, J

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Order made in

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