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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.6379 of 2024

Punjab National Bank
Rep. by its Chief Manager
Circle Sastra Spencer Plaza
Anna Salai,
Chennai – 600 002

... Petitioner

Vs.

1.The Inspector of Police,
P6, Kodungaiyur Police Station,
Chennai.

2.M/s.Fortune Windows Pvt Ltd.,
Rep. by its Directors,
No.67B, AJM Nagar, Mettupalayam Road,
Melapakkam, Chennai – 77.

3.M.Purushothaman

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Mandamus, direction to the 1st respondent to obey the orders of Chief Metropolitan Magistrate Court, Egmore dated 6/06/2023 and consequently to provide necessary police assistance to the Advocate Commissioner to take physical possession of the secured property belonging to the 3rd respondent.



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For Petitioner : Mr.M.L.Ganesh
For Respondents : Mr.A.Damodaran
Additional Public Prosecutor for R1

ORDER

This writ petition has been filed for issue of writ of mandamus directing the 1st respondent to provide police protection to the Advocate Commissioner who has been appointed for taking physical possession of the secured property belonging to the 3rd respondent.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the 1st respondent.

3.It is seen from records that the petitioner Bank has taken steps to recover the amount from the 3rd respondent under the SARFAESI Act. The petitioner bank filed the petition under Section 14 of the SARFAESI Act for enabling the Bank to take possession of the secured asset of the 3rd respondent. The learned Chief Metropolitan Magistrate Court, Egmore by an order dated 06.06.2023 made in CrI.M.P.No.6052 of 2023 appointed an Advocate Commissioner and permitted the Advocate Commissioner to take possession of the property.



4.The grievance of the petitioner is that every time the Advocate Commissioner visits the property there is resistance on the side of the 3rd respondent and the respondent police is not providing any police protection to take over the possession of the property. Aggrieved by the same, the present writ petition has been filed before this Court.

5.The learned Additional Public Prosecutor on instructions submitted that every time the police visits the spot, the 3rd respondent threatens that he will commit suicide and thereby, the police hesitated to give police protection.

6.In the considered view of this Court, the petitioner Bank has already taken steps to recover the money from the defaulter. The competent Court has already passed an order under Section 14 of the SARFAESI Act and has appointed an Advocate Commissioner to take over the possession of the secured asset. Unless and otherwise, the order passed by the competent Court is stayed or interfered by any other competent Court, the order passed by the learned Chief Metropolitan Magistrate Court, Egmore has to be complied with.

7.In view of the above, it is left open to the Advocate Commissioner to make a fresh representation before the 1st respondent and seek for police protection to



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N. ANAND VENKATESH, J.

SSR

take over the possession of the secured asset. In the absence of any stay order passed by competent Court, the Advocate Commissioner shall be permitted to take possession of the secured asset and necessary police protection shall also given by the 1st respondent.

8.This writ petition is disposed of with the above directions. No Costs.

12.03.2024

Index : Yes/No

Internet : Yes/No

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To

1.The Chief Metropolitan Magistrate Court, Egmore.

2.The Inspector of Police,
P6, Kodungaiyur Police Station,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

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