



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.3.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.7984 of 2024

P.Saravana Praveen Kumar

... Petitioner

.Vs.

1.The Commissioner of Police
Greater Chennai Police
No.132, EVK Sampath Road
Vepery, Chennai 600 007.

2.The Inspector of Police
Perungudi Police Station
Church Main Road
CBI Colony, Perungudi
Chennai 600 096.

3.The General Manager
Canara Bank
Assets Recovery Management Branch
No.770A, 1st Floor, Spencer Plaza
Anna Salai
Chennai 600 002.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st and 2nd respondents to accord necessary police protection to the Advocate Commissioner for effective implementation of the order passed by the Chief Judicial Magistrate, Chengalpattu under Section 14 of the SARFAESI Act, 2002 in CrI.MP.No.8660 of 2022 dated 29.9.2022.



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For Petitioner : Mr.Sharanth Chandran
For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side)
for R1 & R2

ORDER

This writ petition has been filed for a direction to the respondent police to provide police protection to the Advocate Commissioner in order to implement the order passed by the Chief Judicial Magistrate, Chengalpattu, under Section 14 of the SARFAESI Act in Crl.MP.No.8660 of 2022, by order dated 29.9.2022.

2.The case of the petitioner has been captured in detail in the interim order passed by this Court in CMP.No.5410 of 2024 in CRP.No.1035 of 2024, dated 11.3.2024 and the relevant portions are extracted hereunder:

2. According to the petitioners, the 11th respondent became the owner of the property to an extent of 3813 sq.ft. along with superstructure, situated at No.17, Pillayar Koil Street, Perungudi, Chennai, vide settlement deed dated 16.02.2005. Subsequently, the respondents 11 and 12 herein had availed credit facility and overdraft facility from the Canara Bank, Kotturpuram Branch, by mortgaging the above property; and since they committed default in payment of the above loan, the bank had initiated SARFAESI proceedings against them and the property was brought on sale through action. The petitioner herein had purchased the above said property through auction and sale certificate was also issued on



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19.12.2022 in favour of him. Further, by mortgaging the above said registered sale certificate, the petitioner has obtained loan from the Indian Bank to the tune of Rs.98,00,000/- and also obtained E.B., sewerage, Metro water connection in his name.

3. Subsequent to the SARFAESI proceedings, the 11th respondent had entered into lease agreements with various persons/respondents 1 to 10 herein in respect of the above said property, which is tabulated as under.

Sl No	Name of plaintiffs	type of place	advance amount	rent	tenancy period
1	D.Balakrishnan s/o Dharmaraj	House ground floor	1,00,000.00	12,000	29.12.2002 to 28.11.2023
2	Sheik Altaf Sheriff Sheik s/o Nazir Ahamed	House first floor	50,000.00	11,000	01.03.2023 to 31.01.2024
3	Venkatesan c/o Raji	House first floor	50,000.00	10,000	01.12.2022 to 01.11.2023
4	N.Vijayalakshmi w/o Nagarajan	House first floor	50,000.00	5,00	26.10.2022 to 25.09.2023
5	Murugan s/o Rathnam	3rd shop	1,00,000.00	15,000	10.05.2023 to 09.04.2024
6	Ranganathan s/o Pavadai	5th shop	1,00,000.00	10,000	07.05.2023 to 06.04.2024
7	Ramlal s/o Pannaram	House at ground floor and first shop	2,50,000.00	15,000	02.01.2023 to 01.12.2023
8.	Padhmavathi w/o Krishnan	6th shop	2,00,000.00	5,000	01.01.2023 to 30.11.2023
9.	Gangaraj s/o Gengusamy	4th shop	1,00,000.00	5,000	10.05.2023 to 09.04.2024
10.	Sakthivel s/o Thangavel	2nd shop	1,00,000.00	5,000	05.11.2022 to 04.10.2023
		Total	11,00,000		



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4. It is contended by the petitioners that, based on the above said lease deeds, and also suppressing the earlier SARFAESI proceedings, the respondents 1 to 10 herein/ tenants in the above said property, have filed O.S.No.345/2023 before the Principal District Court, Chengalpattu, seeking permanent injunction, restraining the petitioner and others from evicting them from the property, without due process of law, and also obtained an ex parte interim injunction against the petitioner and others on 21.06.2023, in I.A.No.2/2023 in the above said suit. Therefore, the above interim order may be suspended.

5. I have considered the submission made by the learned counsel for the petitioner and also perused the materials on record.

6. On perusal of the records, it is noticed that the above said suit in O.S.No.345/2023 was filed by the respondents 1 to 10 herein before the Principal District Judge, Chengalpattu against the defendants 1 to 7, wherein, the petitioner herein is the third defendant and the respondents 11 and 12 are the defendants 1 and 2, who availed the credit facility from the bank. The above said suit was filed with the following prayers

i) granting permanent injunction restraining the defendants 1 to 7 and their men from dispossessing or evicting the plaintiffs, otherwise than in accordance with law

ii) directing the first defendant to pay the suit amount of Rs.11,00,000/- to the plaintiffs.



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The above said suit was challenged by the petitioner in the instant civil revision petition, seeking to strike off the above said plaint in O.S.No.345/2023.

7. It is contended by the petitioner that, subsequent to the SARFAESI proceedings initiated, the bank had filed an application in CrI.M.P.No.8660/2022 under Section 14 of the above Act before the Chief Judicial Magistrate, Chengalpattu for taking possession of the mortgaged property and the same was allowed on 29.09.2022. Thereafter, sale notice was issued and the petitioner had participated in the auction and purchased the property for a valuable consideration of Rs.2,01,00,000/- and a sale certificate was also issued in his favour, which was registered on 19.12.2022.

8. It is an admitted fact that, after issuing of sale certificate in favour of the petitioner, with regard to the property, which was and registered on 19.12.2022, the 11th respondent herein had entered into lease agreements with various persons/ respondents 1 to 10 and obtained advance amount by renting the properties to them. Hence, *prima-facie* case is made out in favour of the petitioner. It is to be noted that, the respondents 1 to 10 herein have obtained interim injunction restraining the petitioner herein and others from evicting them, other than due process of law. Therefore, there is no bar for the petitioner to initiate the provisions under SARFAESI Act and take action against the respondents, in pursuance of law.

3.It is clear from the above that an attempt was made to defeat the right of the auction purchaser in taking possession of the property by inducting some fresh



tenants into the property. The above order makes it clear that there is no bar for the petitioner to proceed further in accordance with law. The interim injunction order granted in favour of the so called tenants has also been suspended by this Court by virtue of the interim order dated 11.3.2024.

4.The petitioner has made a representation before the 1st and 2nd respondents dated 13.3.2024, seeking for police protection based on the above order and in order to enable the Advocate Commissioner to take possession of the property pursuant to the order passed by the learned Chief Judicial Magistrate in Crl.MP.No.8660 of 2022, dated 29.9.2022, under Section 14 of the SARFAESI Act.

5.The learned Government Advocate (Crl.Side) on instructions submitted that the said representation/complaint is not available with the 2nd respondent. The learned Government Advocate (Crl.Side) submitted that the petitioner can be directed to give a fresh representation/complaint before the 2nd respondent and the same will be acted upon.

6.Taking into consideration the facts and circumstances of the case and also the order passed by the learned Chief Judicial Magistrate, Chengalpattu in Crl.MP.No.8660 of 2022, dated 29.9.2022 and the interim order passed by this Court in CMP.No.5410 of 2024 in CRP.No.1034 of 2024, dated 11.3.2024, there shall be a direction to the petitioner to submit a fresh representation/complaint to the 2nd



respondent seeking for police protection. On receipt of the same, the 2nd respondent shall act upon it and provide sufficient police protection to enable the Advocate Commissioner to take possession of the property and hand it over to the petitioner.

7.This writ petition is disposed of with the above directions. No costs.

26.03.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
KP

To

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4. The Public Prosecutor,
High Court, Madras.



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