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WP No.36436 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 04.01.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

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Encore Asset Reconstruction Company Pvt., Ltd.,
rep. by its Authorised Signatory,
Mr.B.M.Nagaraju,
Corporate Office at 5th Floor,
Plot No.137, Sector 44, Gurgaon, Haryana – 122 002 ... Petitioner

Vs.

1. The Deputy Commissioner of Police,
Pulliyanthope District,
Cooks Road, Otteri, Chennai 600 012.
2. The Assistant Commissioner of Police,
Sembiam Range,
Paper Mills Road, Bunder Garden,
Perambur, Chennai 600 011.
3. The Inspector of Police,
Law and Order,
K-1, Sembium Police Station,
Paper Mills Road, Bunder Garden,
Perambur, Chennai 600 011.
4. M/s.Dinakaran Medical Agencies,
No.41 and 42, Madhavaram High Road,



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North Perambur, Sembium, Chennai 600 011

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5. Mr.C.Dinakaran

6. Mrs.D.Mallika

7. MR.C.Dayanithi

8. Mr.C.Anantharaj

9. Mr.C.Umapathy

... Respondents

Prayer:-This Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus directing the respondents 1 to 3 to extend their assistance to the Advocate Commissioner for taking physical possession of the schedule of property by executing the warrant in pursuance of order of the learned Recovery officer of Debt Recovery Tribunal-III, Chennai, in T.R.C No.732 of 2023 (earlier DRC No.142 of 2016) in O.A.No.164 of 2015.

For Petitioner : Mr.L.Thiyagaiya

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor
for R1 to R3



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ORDER

This writ petition has been filed by the Asset Reconstruction Company for issue of writ of Mandamus directing the respondent police to provide police protection /assistance to the Advocate Commissioner and to enable the Advocate Commissioner to act upon the order passed by the Debt Recovery Tribunal II, Chennai, dated 19.01.2021 wherein the Advocate Commissioner was appointed to take physical possession of the attached properties.

2. The grievance of the petitioner is that the Debt Recovery Tribunal had also passed an order as early as on 19.01.2021 by appointing the Advocate Commissioner for taking physical possession of the attached properties in terms of the provisions of Recovery of Debts and Bankruptcy Act, 1993. The Advocate Commissioner had also repeatedly requested the police to provide assistance / protection in order to take physical possession of the attached properties. However, there was no action on the side of the



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police and as a result, the warrant was not able to be executed by the Advocate Commissioner. It is under these circumstances, the present writ petition has been filed before this Court seeking for appropriate directions.

3. Heard Mr.L.Thiyagaiya, learned counsel for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor for Respondents 1 to 3.

4. Taking into consideration the facts and circumstances of the case and also considering the order that was passed by the Debt Recovery Tribunal, there shall be a direction to the 3rd respondent to provide police protection / assistance to the learned Advocate Commissioner to enable the Commissioner to execute the warrant issued by the DRT in DRC No.142 of 2016. This process shall be completed by the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order. This is in view of the fact that the case is now posted for hearing on 31.01.2024 to enable the Advocate Commissioner to file the report on the execution of the warrant.



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04.01.2024

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Index : Yes/No

Internet: Yes

Speaking Order/Non-speaking Order

To

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