



W.P(MD)No.4708 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2024

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P(MD)No.4708 of 2024

M/S.Can Fin Homes Ltd.,
represented by its Authorized Officer,
Mr.Shiva VR.

... Petitioner

Vs.

1. The Director General of Police,
Office of the Director General of Police,
Radhakrishnan Salai,
Mylapore,
Chennai - 600 004.

2. The Superintendent of Police,
Office of Superintendent of Police,
District Police Office,
Rajagopalapuram,
Pudukottai - 622 001.

3. The Inspector of Police - Crime,
Tirukokarnam Police Station,
No.234, Tirukokarnam,
Nathampennai,
Pudukottai - 622 005.

... 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 third Respondent not to harass the Petitioner's company staffs.

For Petitioner : Mr.S.I.Muthiah

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl. side)

ORDER

The learned Counsel for the Petitioner submitted that the Petitioner had filed this petition seeking a direction against the Respondent Police not to harass the Petitioner's Company Staff.

2.The learned Counsel for the Petitioner submitted that the Petitioner is the authorized Officer of the Can Fin Homes Ltd. Also he submitted that one Raju and his wife Tamilselvi had obtained mortgage loan. The borrower had not repaid the loan and committed default. Therefore, the staff of the Bank went to the mortgage asset to fix notice taking symbolic possession. When the staff of the Bank reached the house of the borrowers, the borrower gathered with their neighbours and attacked the staff of the Bank. The staff of the Bank lodged a complaint



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with the third Respondent. Instead of taking action on the complaint of the Petitioner, the Respondent Police had acted as per the complaint of the borrowers and obtained written undertaking from the Bank staff against the provision of SARFAESI Act. Therefore, the Petitioner was forced to file this Petition seeking direction against the Respondent Police not to harass the staff of the Bank.

3.The learned Government Advocate (Criminal side) on instructions from the Respondent Police submitted that staff of the Bank had visited the house of the said Tamilselvi and abused her in filthy language for the default committed by her husband, who is the borrower of the loan. Therefore, the said Tamilselvi and her neighbours protested against the Bank staff. The said Tamilselvi had lodged a complaint with the third Respondent. Based on which, the staff of the Bank was summoned by the Respondent Police. After due enquiry, the staff of the Bank herein gave a written undertaking, based on which the enquiry was closed.

4.It is found invariably in cases involving loans from the Bank that the Bank or Financial Institutions are engaging some agencies and its



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staff are visiting the borrowers and abusing them using filthy language.

There are reported decisions of the High Court condemning such attitude of the Bank engaging agencies on contract, who indulge in such activities by abusing the borrowers in the place of residence in the presence of their neighbours.

5.From the submissions made by the learned Counsel for the Petitioner and the learned Government Advocate (Criminal side), this Court is of the view that the Petitioner before ever proceeding to the place of occurrence, it is better for him or for the Bank to inform the local Police to avoid such unexpected controversial incidents. Also the first Respondent is directed to issue proper guidelines to the Field Officers to protect the Bank staff in carrying out their legal duty in recovery of loan from borrowers or to attach assets which are mortgaged by the borrowers at the time of agreement and entered into mortgage with the Bank. When they visit the properties to carry out their lawful duty, the Officers and the Field Officers shall protect the Bank staff. At the same time, the Bank staff shall not engage any collection agency to abuse and threaten the borrowers in the place of their residence.



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6.In view of the above, this Criminal Original Petition is disposed

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01.03.2024

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

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SATHI KUMAR SUKUMARA KURUP, J.

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