



W.P.(MD)Nos.19359, 19361 & 19362 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)Nos.19359, 19361 & 19362 of 2024

W.P.(MD)No.19359 of 2021

Axis Bank Limited,
No.61/48, PATTU ARCADE,
Ram Nagar, By Pass Road,
Madurai,
Madurai District-625 016.
Rep. by its Authorized Officer.

... Petitioner

-VS-

1.The Superintendent of Police,
Madurai District,
Madurai.

2.The Deputy Superintendent of Police,
Usilampatti,
Madurai District-625 532.

3.The Inspector of Police,
Checkanurani Police Station,
Checkanurani,
Madurai District-625 514.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus to direct the respondent police to take suitable legal action based on the remainder to the complaint, dated 28.02.2024 and further direct the respondent police to offer adequate police protection to the officers and the authorized officer of the petitioner Bank, at the time



W.P.(MD)Nos.19359, 19361 & 19362 of 2024

of entering into the secured assets at Door No.4/113A, Oothupatti, Kongarpuliyangulam Village, Thirumangalam Taluk, Madurai District to an extent of 10 Cents in Survey No.111/3B namely the secured asset.

For Petitioner : Mr.P.Pethu Rajesh

For Respondents : Mr.B.Thanga Aravindh,
Government Advocate (Criminal Side)

W.P.(MD)No.19361 of 2021

Axis Bank Limited,
RAC, 4th Floor, Arcot Plaza,
Old No.38, New No.65,
Arcot Road, Kodambakkam,
Chennai-600 024,
Represented by its Authorized Officer.

... Petitioner

-vs-

1.The Superintendent of Police,
Kanyakumari District,
Kanyakumari.

2.The Inspector of Police,
Thiruvattar Police Station,
Thiruvattar.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus to direct the respondent police to take suitable legal action based on the complaint, dated 22.03.2024 and further direct the respondent police to offer adequate police protection to the officers and the authorized officer of the petitioner Bank, at the time of entering into the secured assets at Door No.13-5/1 at Kanyakumari District, Marthandam Registration District, Verkilabmi Sub Registration District, Thiruvattar Taluk (Formerly Kalkulam), Kumarankudi Village, Verkilambi Town Panchayat to extent of 14 Cents and 4 Sq Links equivalent to 6100.1424 sq. ft in Re.survey no:194/5A (Old survey No.262 and 263),



W.P.(MD)Nos.19359, 19361 & 19362 of 2024

namely the secured asset.

WEB COPY

For Petitioner : Mr.P.Pethu Rajesh

For Respondents : Mr.B.Thanga Aravindh,
Government Advocate (Criminal Side)

W.P.(MD)No.19362 of 2021

Axis Bank Limited,
No.581, Nithyan Valagam,
Madurai Road,
Theni-625 531.

... Petitioner

-VS-

1.The Superintendent of Police,
Theni District,
Theni.

2.The Deputy Superintendent of Police,
Sunnambukalavara,
Theni-625 531.

3.The Inspector of Police,
Gudalur North Police Station,
Gudalur, Theni-624 212.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus to direct the respondent police to take suitable legal action based on the complaint, dated 28.02.2024 and further direct the respondent police to offer adequate police protection to the officers and the authorized officer of the petitioner Bank, at the time of entering into the secured assets at Door No.W-1, D-6, situated at Thevar lane, Melagudalur Village, Uthamapalayam, Theni District-625 518 in Old Natham Survey No.1463, 1464 and 1466 and as per New Natham Survey No.1466/13 bearing Patta No.1723, namely the secured asset.

For Petitioner : Mr.P.Pethu Rajesh



WEB COPY



W.P.(MD)Nos.19359, 19361 & 19362 of 2024

For Respondents : Mr.B.Thanga Aravindh,
Government Advocate (Criminal Side)

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

The issue involved in all these three writ petitions is the same. Hence, they are disposed of by a common order.

2. It is the grievance of the bank that the respondent police is not co-operating with the bank in executing the orders passed by the learned Chief Judicial Magistrate under Section 14 and in all these cases, the debtors have re-entered the property after possession was taken by the Bank with the aid of the police. He would also further submit that once the bank approaches the police, complaining of such re-entry / trespass, the police issue a CSR and attempt to conduct an enquiry which is not warranted.

3. Mr.Thanga Aravindh, learned Government Advocate (Criminal Side) would submit that suitable instructions have been issued to the respondent police to avoid issuance of CSRs in such matters. He would also submit that in two cases, FIRs have also been filed against the debtors for trespass. Filing of an FIR is not a solution. Once the bank is put in possession of the property pursuant to an order under Section 14, any trespass shall not be permitted by the police. If such trespass is allowed or



W.P.(MD)Nos.19359, 19361 & 19362 of 2024

condoned, it will amount to complete negation of the provisions of the SARFAESI Act, 2002, which provides as special machinery for recovery of debts due to banks and financial institutions. It is the duty of the police officers to ensure that, once possession is taken in execution of the order of a Chief Judicial Magistrate made under Section 14 of the SARFAESI Act, 2002, such possession is protected and any trespass is dealt with firmly.

4. In view of the assurance given by the learned Government Advocate (Criminal Side) and the four Sub Inspectors of Police of the jurisdictional police stations who are present in person, we direct the respondent police to give necessary cooperation and protection to the officials of the bank to take possession of the properties from the debtors who had trespassed. The bank officials will also cooperate with the police officers in fixing a date for taking possession. The police officials are also directed to cooperate with the bank officials and avoid any undue delay in implementing the order.

5. With the above directions, these writ petitions are disposed of. There shall be no order as to costs.

6. Post the matter on **14.10.2024**, for reporting compliance.

[R.S.M., J.]

[L.V.G., J.]

05.09.2024

NCC : Yes/No



W.P.(MD)Nos.19359, 19361 & 19362 of 2024

Index : Yes/No

Internet : Yes

Sml

WEB COPY

To

- 1.The Superintendent of Police,
Madurai District,
Madurai.
- 2.The Deputy Superintendent of Police,
Usilampatti,
Madurai District-625 532.
- 3.The Inspector of Police,
Checkanurani Police Station,
Checkanurani,
Madurai District-625 514.
- 4.The Superintendent of Police,
Kanyakumari District,
Kanyakumari.
- 5.The Inspector of Police,
Thiruvattar Police Station,
Thiruvattar.
- 6.The Superintendent of Police,
Theni District,
Theni.
- 7.The Deputy Superintendent of Police,
Sunnambukalavara,
Theni-625 531.
- 8.The Inspector of Police,
Gudalur North Police Station,
Gudalur, Theni-624 212.



WEB COPY



W.P.(MD)Nos.19359, 19361 & 19362 of 2024

R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

Sml

W.P.(MD)Nos.19359, 19361 &
19362 of 2024

05.09.2024