



W.P.No.244 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.244 of 2025

M/s. Asset Reconstruction Company (India) Ltd.,
Rep by its Authorised Officer
Karthikeyan Jayavel,
Branch Office at No.1-G,
First Floor, Century Plaza,
No.560-562, Anna Salai, Tenymapet,
Chennai – 600 0018.

... Petitioner

Vs.

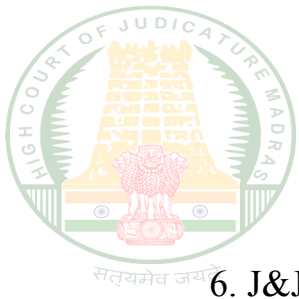
1. The Inspector of Police
S1, St. Thomas Mount Police Station,
Chennai – 600 016.

2. The Assistant Commissioner,
Karuneeagar Street,
St. Thomas Mount,
Chennai , Tamil Nadu-600 016.

3. The Deputy Commissioner,
Balu Subramaniam Street,
Nazrathpuram,
St. Thomas Mount,
Chennai, Tamil Nadu – 600 016.

4. Balasingh Benitakaran

5. Dorah Crossbell



W.P.No.244 of 2025

6. J&J Traders

Rep by Manager,

No.37, North Masi Street,
Madurai.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to execute the order passed by the learned Chief Judicial Magistrate, Chengalpat, dated 10.08.2023.

For Petitioner : Mr.V.Balasubramani

For Respondents

For R1 to R3 : Mr.K.M.D.Muhilan

Government Advocate (Crl. Side)

For R4 to R6 : No appearance

ORDER

This petition has been filed for direction directing the first respondent to execute the order dated 10.08.2023 passed by the learned Chief Judicial Magistrate, Chengalpat, in C.M.P.No.4356 of 2023, thereby appointing an Advocate Commissioner to take possession of property with the help of police aid.

2. The petitioner is a financial institution and the respondents 4 to 6 availed loan from the petitioner to the tune of Rs.4,35,60,000/- by mortgaging subject property by registered mortgage deed vide documents



W.P.No.244 of 2025

Nos.4000/2016 & 4001/2016 dated 19.08.2016. Thereafter, the

respondents 4 to 6 committed default and their loan account was declared as non performing asset on 19.06.2018. Therefore, the petitioner had initiated proceedings under the SARFAESI Act and filed application under Section 14(1) & (2) of the SARFASI Act before the learned Chief Judicial Magistrate, Chengalpat, in C.M.P.No.4356 of 2023, to take physical possession of the subject property. By an order dated 10.08.2023, the learned Chief Judicial Magistrate, Chengalpat, appointed an Advocate Commissioner and directed the first respondent to provide adequate police protection while taking physical possession. Accordingly, the physical possession of the property was taken and handed over to the petitioner. However, erstwhile owner of the property removed the lock and seal done by the petitioner and entered into the subject property. Once again, the petitioner lodged complaint before the first respondent to take action as against the illegal occupants. Now the petitioner sought for direction to execute the order dated 10.08.2023 passed by the leared Chief Judicial Magistrate, Chengalpat, in C.M.P.No.4356 of 2023.



W.P.No.244 of 2025

3. Heard the learned counsel appearing on either side and

perused the materials placed before this Court.

4. As stated supra, the order dated 10.08.2023, passed by the learned Chief Judicial Magistrate, Chengalpat, in C.M.P.No.4356 of 2023, has been complied with by the first respondent. After taking possession, the petitioner failed to protect the property and as such the property once again trespassed into the same. Therefore, the petitioner lodged complaint. Considering the fact and circumstances, the first respondent is directed to deal with the complaint lodged by the petitioner in accordance with law and take appropriate action as against the persons who trespassed into the petitioner's property, within a period of two weeks from the date of receipt of a copy of this Order.

5. With the above directions, the Writ Petition stands disposed of. There shall be no order as to costs.

13.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
rts



W.P.No.244 of 2025

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4. The Public Prosecutor,
Madras High Court,
Chennai.

5. The Chief Judicial Magistrate,
Chengalpat.



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W.P.No.244 of 2025

G.K.ILANTHIRAIYAN. J.

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W.P.No.244 of 2025

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