



W.P.No.126 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED :13.02.2025

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.126 of 2025

M/s.SMFG India Credit Company Limited.,
Represented by its Authorized Officer,
Mr.P.Muthukumar,
COMMERZONE IT Park- Tower B,
1st Floor, No.III, Mount Poonamallee Road,
Porur, Chennai,
Tamil Nadu, Pin Code - 600 116.

... Petitioner

/versus/

1.The Commissioner of Police,
Commissioner Office Building,
EVK Sampath Road,
Vepery,
Chennai-600007.

2.The Deputy Commissioner of Police,
Mambalam,
T.Nagar,
Chennai-600017.

3.The State,
Represented by Inspector of Police,
R-2, Kodambakkam Police Station,
Chennai - 600024.

4.M/s.Kalaiselvi Modern Rice Mill,
No. 1/571, Ground Floor,
GST Road, Near Ashok Leyland,
Vandalur, Chennai,
Tamil Nadu-600 048,



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Rep by its Proprietor

(Mr.A.Jayaraman Deceased represented through its Legal heirs)

a. Mrs. Kalaiselvi, W/o.A.Jayaraman,

b. Mrs.Vasanthi Jayaraman, D/o.Ajayaraman.

5.Mrs.Kalaiselvi -J,

W/o.Late Jayaramah,

H.No.5, Sai Baba Garden,

Akkarai Opp. Saranalayas Montosari School,

Sholinganallur, Chennai, Tamil Nadu-600 119.

6. Mrs. Vasanthi Jayaraman,

D/o.Late A Jayaraman,

H.No.5, Sai Baba Garden,

Akkarai, Opp. Saranalayas Montosari School,

Sholinganallur, Chennai, Tamil Nadu-600 119

.. Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, to direct the respondent 1 to 3 to provide necessary police assistance to execute the order passed by the Hon'ble Chief Metropolitan Magistrate Court, Egmore, vide CrI.MP.No.4968/2023, dated 04.05.2023.

For Petitioner : Mr.V.Balasubramani

For R2 & R3 : Mr.K.M.D.Muhilan
Govt. Advocate(CrI.Side)

For R4 to R6 : Not ready notice – No appearance

ORDER

The petition has been filed for direction, to direct the respondents 1 to 3 to provide necessary police assistance to execute the order passed by the



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Hon'ble Chief Metropolitan Magistrate Court, Egmore, vide

Crl.M.P.No.4968/2023, dated 04.05.2023.

2. The petitioner is a financial institution covered under the SARFAESI Act. While being so, the respondents 4 to 6 approached the petitioner to avail loan by creating a mortgage for the property by depositing the title deeds registered under document No.4056/2021, dated 02.11.2021, in respect of the property to an extent of property 2160 sq.ft bearing plot No.7, Door No.7 with the building Zakariya Colony, 4th street, comprised in paimash No.789, 794, 806, 807, New Town Survey No.8, Block No.29 in Puliur Village, Egmore, Chennai, to secure the loan. Accordingly, they were sanctioned loan to tune of Rs.1,21,40,000/- for on 30.09.2021. However, they committed default and failed to repay the loan amount. As a result, the petitioner initiated proceedings under SARFAESI Act and took symbolic possession after issuance a notice under Section 13(2) of SARFAESI Act. Thereafter, in order to take physical possession of the subject property, the petitioner filed an application under Section 14 of SARFAESI Act in Crl.M.P.No.4968/2023 before the Chief Judicial Magistrate, Egmore, Chennai and same was allowed on 04.05.2023 and thereby, appointed Advocate Commissioner to take physical possession of the subject property, if necessary



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with the assistance of the 3rd respondent.

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3. On instructions, Mr.K.M.D.Muhilan, Learned Government Advocate (Crl.Side) appearing for the respondents 1 to 3 submitted that in order to identify the property, had sent a communication to the Tahsildar on 13.01.2025 to provide adequate police protection while taking physical possession.

4. On perusal of the schedule of property, it is clear that it is a house site consisting a house. Therefore, there is no need to identify the subject property.

5. The Learned Counsel represented on behalf of the third party, who claims to be the owner of the subject property and submitted that the subject property belongs to the third party. The borrowers, namely the respondents 4 to 6 herein, allegedly forged his signature and fabricated some documents to avail loan by depositing the title deeds. The third party did not even appear before the SARFAESI proceedings but has now appeared before this Court, claiming tile over the property. The third party has to approach the Civil Court for appropriate relief. Therefore, the submission raised by the third



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party cannot be considered and the third respondent ought to have provide adequate police protection to the Advocate Commissioner while taking physical possession of the subject property.

6. In view of the above, the 3rd respondent/Inspector of Police, R-2, Kodambakkam Police Station, Chennai – 600 024 is directed to provide adequate police protection to the Advocate Commissioner to take physical possession of the subject property as ordered by the Learned Chief Judicial Magistrate, Egmore, in CrI.M.P.No.4968/2023 dated 04.05.2023, within a period of three weeks, from the date of receipt of copy of this order.

7. With the above direction, this Criminal Original Petition is allowed.

13.02.2025

Index : Yes/No.
Neutral Citation : Yes/No.
bsm
To,
1.The Commissioner of Police,
Commissioner Office Building,
EVK Sampath Road, Veperiy,
Chennai-600007.



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2.The Deputy Commissioner of Police,
Mambalam,
T.Nagar,
Chennai-600017.

3.The Inspector of Police,
R-2, Kodambakkam Police Station,
Chennai - 600024.

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



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G.K.ILANTHIRAIYAN,J.

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