



W.P.Crl.(MD)No.2946 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : **05.06.2026**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.Crl.(MD)No.2946 of 2026

M/s.Cholamandalam Investment
& Finance Company Limited,
Represented by its Authorised Officer,
G.Maridurai.

... Petitioner

Vs.

1. The Superintendent of Police,
Kanniyakumari,
Kanniyakumari District.
2. The Inspector of Police,
Manavalakurichi Police Station,
Kanniyakumari,
Kanniyakumari District.
(Crime No.150 of 2025)
3. Vijayan
4. A.Jothi Lakshmi
5. Ajith

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st and 2nd respondents to restore the possession of the house property in Re Survey No.396/12, measuring to an extent of 5.325 Cent of land and building bearing Door No.3/93, Manavalakuruchi Village and Panchayat, Kanyakumari District and also provide adequate police protection.



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For Petitioner : Mr.V.Sukumar

For Respondents : Mr.P.Vetrivel (R1 & R2)

Counsel for State of TN (Crl.Side)

ORDER

This writ petition has been filed seeking for a direction to the 1st and 2nd respondents to restore the possession of the house property in Re Survey No. 396/12, measuring to an extent of 5.325 Cent of land and building bearing Door No.3/93, Manavalakuruchi Village and Panchayat, Kanyakumari District and also provide adequate police protection.

2. The learned counsel appearing for the petitioner submitted that the 3rd and 4th respondents availed two loan facilities to the tune of Rs. 30,88,824/- and Rs.7,31,994/- by executing memorandum of Deposit of Title Deeds in Document No.877 of 2018 dated 08.06.2018 and Document No.1266 of 2019 dated 06.08.2019. However, the borrowers failed to repay the loan in accordance with the agreement and mortgage terms. Pursuant to this default, SARFAESI proceedings were initiated, and physical possession of the property was taken in accordance with law, as per the order of the learned Chief Judicial Magistrate, Nagercoil, in Crl.M.P.No.10316 of 2023 dated 05.08.2023 under Section 14 of the SARFAESI Act, 2002. Despite this, the borrowers managed



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to re-enter the property that had been attached and taken into possession. In this regard, the petitioner sent a representation to the respondents. Since no action has been taken on the said representation, the present writ petition has been filed.

3. The learned Government Advocate appearing for the respondent police submitted that the said exercise of re-entering into the attached house has happened as early as in the year 2023, for which a criminal case in Crime No. 150 of 2025 was also registered by the 2nd respondent police. He also pointed out that it is not clear as to what had transpired in the interregnum period of these two years, without which a final decision cannot be taken.

4. Heard the learned counsel on either sides and carefully perused the materials available on record. Considering the nature of the order proposed to be passed in this writ petition, notice to the private respondents is dispensed with.

5. It is seen that already an FIR has already been registered by the 2nd respondent in this matter. It is the duty of the police officers to ensure that once possession is taken in execution of the order of the Chief Judicial Magistrate,

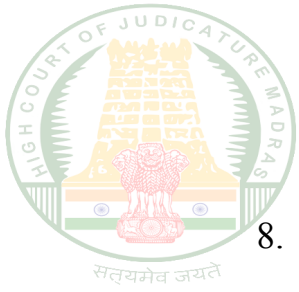


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Nagercoil, under Section 14 of the SARFAESI Act, 2002, such possession is protected, and any trespass be dealt with firmly and in accordance with law.

6. However, in view of the submission made by the learned Government Advocate that it is not clear as to whether the borrowers had obtained any order in their favour in the interregnum period, this Court is of the considered view that the 2nd respondent police shall put the borrowers on notice and conclude the enquiry within a period of two weeks from the date of receipt of copy of this order.

7. During enquiry, if it is found that the borrowers have not obtained any further order permitting their re-entry into the attached property, then it is for the 2nd respondent to take necessary action as against the borrowers and facilitate the petitioner to take the re-possession of the property from the debtors, who had trespassed. The bank officials are directed to cooperate with the respondent police in fixing a date for taking possession and the police officials are also directed to cooperate with the bank officials to avoid any undue delay in this regard.



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8. It is made clear that the bank officials will pay necessary charges for the said exercise in terms of GO.Ms.No.139, Home (Pol-VIII) Department, dated 04.03.2019. Further, it is clarified that these directions are to be implemented, only if the borrowers do not have any other order or authority supporting their possession of the subject property. Accordingly, this writ petition stands disposed of.

05.06.2026

NCC : Yes / No
Index : Yes / No
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TO:-

1. The Superintendent of Police,
Kanniyakumari,
Kanniyakumari District.
2. The Inspector of Police,
Manavalakurichi Police Station,
Kanniyakumari,
Kanniyakumari District.
(Crime No.150 of 2025)
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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Order made in
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Dated
05.06.2026