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W.P.Crl.No.1408 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2026

CORAM:

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

W.P.Crl.No.1408 of 2025

M/s.Karur Vysya Bank Limited
Having Branch Office at 3rd Floor,
No.1, Padmavathiyar Road,
Gopalapuram, Chennai-600086.
Rep by its Authorised officer Mr. Umar farooq
M/51.

..Petitioner(s)

Vs

1. The Superintendent of Police
District Superintendent of Police Office,
Nethimedu, Salem District-636002.
2. The Additional Superintendent of Police
District Superintendent of Police Office,
Nathimedu, Salem District-636002.
3. The Deputy Superintendent of Police
Deputy Superintennndent of Police office,
Sankari Salem District-637301.
4. The Inspector of Police
Poolampatti Police Station,
Salem District.
5. K.L. Industries
Rep by Sole Proprietor,
L.Boopathi Raja,
S/o.N. Lashmanasamy,
5/60, Velarivelli Post,
Idapadi Taluk, Salem-537101.



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6. K. Lakshmanasamy
M. Natesan,

7. L. Kamala
W/o. Lakshmansamy,
Respondent 6 and 7 are residing at
Idapadi Taluk, Salem-537101.

..Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st to 4th respondent, to complied with the order passed by the Chief Judicial Magistrate at Salem in Crl.M.P.No.1389 of 2024 dated 26.09.2024 on the basis of the petitioner representation dated 24.09.2025 and 15.10.2025 and to provide adequate police protection to the petitioner for facilitate the physical possession of the secured asset and to restore the property of the petitioner at the time of entering into the Secured asset and take action the trespasser.

For Petitioner : Mr.T.Gowri Shankar

For Respondents

For R1 to R4 : Mr.R.Ganesh Kumar

Counsel for Government of Tamil Nadu
(Criminal Side)

For R5 to R7 : Mr.T.R.Sundaram

ORDER

This Writ Petition has been filed for direction the respondents 1 to 4, to comply with the order passed by the learned Chief Judicial Magistrate, Salem in Crl.M.P.No.1389 of 2024 dated 26.09.2024



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and to provide adequate police protection to the petitioner for facilitate the physical possession of the secured asset and to restore the property of the petitioner and take action against the trespassers.

2. The petitioner bank had lent housing loan in favour of the respondents 5 to 7 herein against collateral security of immovable property. After availing loan, they failed to repay the said amount and they committed default. Therefore, the said loan account was classified as a Non-Performing Asset (NPA), and action was initiated under the provisions of the SARFAESI Act. Consequently, the petitioner brought the secured property for sale through a public auction. The property was sold out through public auction and the petitioner filed an application in Crl.M.P.No.1389 of 2024 on the file of the learned Chief Judicial Magistrate, Salem, for appointment of Advocate Commissioner to take physical possession of the secured asset with police aid. It was allowed by an order dated 26.09.2024 and accordingly physical possession of the property was taken. However once again, the respondents 5 to 7 herein were trespassed into the property and squatted over the same. Therefore, the petitioner lodged complaint. Since the same was not considered, the petitioner filed the present petition.



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3. The learned counsel appearing for the petitioner submitted that the petitioner approached the learned Chief Judicial Magistrate, Salem, under Section 14 of the SARFAESI Act, to take physical possession of the secured asset since after taking possession of the property, once again the original owner trespassed into the property and squatted over the same. Therefore, the petitioner once again filed petition before the learned Chief Judicial Magistrate, Salem, under Section 14(2) of the SARFAESI Act, to appoint an Advocate Commissioner to take physical possession of the property. However, it was returned for the reason that the application under Section 14(2) of the SARFAESI Act cannot be entertained.

4. The learned Government Counsel appearing for the respondents 1 to 4 submitted that as directed by the learned Chief Judicial Magistrate, Salem, the Advocate Commissioner was given police aid to take possession of the property. Thereafter, the original owners of the property trespassed into the property and squatted over property.

5. The learned counsel appearing for the respondents 5 to 7



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submitted that the auction sale is under challenge before the Debt

Recovery Tribunal in S.A.No.860 of 2024 in which, an interim order was granted on certain conditions. However, part of the condition only complied with and as of on now there was in interim order to take physical possession of the property. He further submitted that the aged parents of the respondents 5 to 7 are residing in the out house of the secured asset and they are permitted to reside their by the petitioner herein. He also produced a copy of the petitioner's letter dated 22.06.2026, thereby calling upon the respondents 5 to 7 to remove the articles which were kept in the premises. Hence, he seeks further period of two months to pay the entire due in order to redeem the secured asset.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. On perusal of the records, it is revealed that the petitioner Bank had sanctioned a housing loan to respondents 5 to 7 and after availing the loan, the respondents committed default. Thereafter, the secured asset was brought for sale through a public auction. After the sale, the petitioner filed a petition in Crl.M.P.No.1389 of 2024 before the learned Chief Judicial Magistrate, Salem, seeking the appointment of an

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Advocate Commissioner to take physical possession of the secured asset with police assistance. By order dated 26.09.2024, the application was allowed, and physical possession of the property was taken. However, thereafter, respondents 5 to 7 again trespassed into the property and unlawfully occupied the same. Further the aged parents are only residing in the out house of the secured asset and therefore, the respondents 5 to 7 herein are not in possession of the property. Further, they seek further time to pay all the dues.

8. Though the petitioner once again filed an application for the appointment of an Advocate Commissioner, the same was rejected. In this regard, the learned counsel appearing for the petitioner relied upon the judgment of the High Court of Gujarat at Ahmedabad in ***Special Civil Appeal No.836 of 2024*** dated ***20.09.2024*** in the case of ***Authorised Officer, Bank of Maharashtra Vs. Additional Chief Metropolitan Magistrate & anr.***, which held as follows :-

“20. The uncontroverted factual aspects in present matter depict that the respondent Nos. 5 and 6 have devised novel, unimaginable and unsustainable modus operandi to defeat ends of justice and fair play. It is not only the matter of physical altercation, but would tantamount to assault on the law and statute. They have



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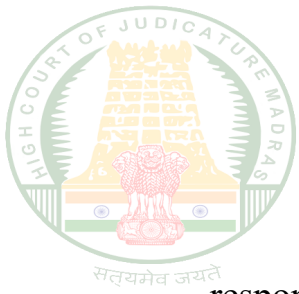
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the audacity to overrule the law. The growing tendency of overpowering the law cannot be tolerated. In peculiar facts and circumstances of this case, we are inclined to exercise powers under Article 226 of the Constitution of India to protect the rule of law and deprecate rising tendency of using criminal force against recovery proceeding undertaken by the financial institutions in terms of SARFAESI Act. We do not find any prohibition under the scheme of the SARFAESI Act that comes in the way of District Magistrate or his delegate to re- exercise the powers to execute the orders passed under section 14."

(c) In the case of ICICI Home Finance Company Ltd. & Anr. v/s. State of Maharashtra & Ors in Writ Petition No.12040 of 2024 date of order 3rd September 2024 passed by the Division Bench of Bombay High Court wherein para Nos.11 to 15 read as under:-

"11. The only question in the present Writ Petition would be whether this Court can grant directions to the District Magistrate and/or the Tahsildar, to re-execute the order passed under Section 14 and to hand over the possession of secured assets to the secured creditor".

The above judgment is squarely applicable to the case on hand since after taking physical possession of the property once again the original owner trespassed into the property and squatted over the same.



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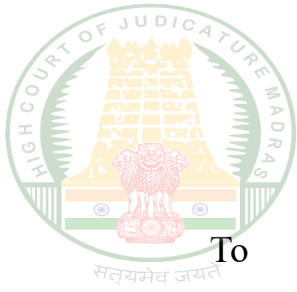
9. Considering the above facts and circumstances, if the respondents 5 to 7 are found to have trespassed into the secured asset, the fourth respondent is directed to take appropriate steps to remove them, take physical possession of the secured asset, and restore possession thereof to the petitioner within a period of two weeks from the date of receipt of a copy of this order. Insofar as the outhouse is concerned, if the petitioner is willing to permit the aged parents of respondents 5 to 7 to reside therein, the fourth respondent shall conduct an enquiry in that regard with the petitioner and act accordingly. It is further made clear that the entire process shall be carried out in the presence of the very same Advocate Commissioner, who was appointed by the learned Chief Judicial Magistrate, Salem.

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

14.07.2026

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

rts



To

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1. The Superintendent of Police
District Superintendent of Police Office,
Nethimedu, Salem District-636002.
2. The Additional Superintendent of Police
District Superintendent of Police Office,
Nathimedu, Salem District-636002.
3. The Deputy Superintendent of Police
Deputy Superintenndent of Police office,
Sankari Salem District-637301.
4. The Inspector of Police
Poolampatti Police Station,
Salem District.
5. The Public Prosecutor,
Madras High Court,
Chennai.



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Case Citation: (2026) ibclaw.in 4437 HC



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Today, this matter has been listed under the caption “For being mentioned” at the instance of the learned counsel for the petitioner.

2. This Court perused the order of this Court dated 14.07.2026 in W.P.Crl.No.1408 of 2025 and there being no ambiguity in the said order, this Court is of the view that no further order is required in this case and the order of this Court dated 14.07.2026 shall stand remain.

04.08.2026

Lpp