

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED 10.02.2015

CORAM  
THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.13718 of 2014 &  
M.P.Nos. 1, 2 & 3 of 2014

V.Gokula Krishna Yadav

.. Petitioner

Vs.

1.The Government of Puducherry  
rep. By the Chief Secretary  
Office of the Secretariat, Puducherry.

2.The Collector  
Government of Puducherry  
Puducherry.

3.The Senior Superintendent of Police  
Puducherry -1.

4.The Superintendent of Police (North)  
Puducherry 1.

5.Mr.Vincent Rayar  
The Deputy Collector,  
Puducherry.

6.The Inspector of Police  
Grand Bazaar Police Station  
Puducherry 605 001.

7.Rayar Francois Marcelli

8.Anibal Nehur

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of Mandamus to forbear the respondents 2 to 6, their subordinates or any person claiming authority through them from in any manner interfering with petitioner peaceful possession and enjoyment of the house bearing door No.128, Candeen Street, Puducherry 605 001, except due process of law.

For Petitioner : Mr.D.Senthilkumar

For Respondents : Mr.A.Tamilvanan, -R1 to R4 & 6  
Government Advocate (Pondy)

Mr.Bharatha Chakravarthy  
for M/s Sai Bharath & Ilan - R7

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O R D E R

By consent of the learned counsel on either side, the writ petitions are taken up for final disposal.

2.Heard Mr.D.Senthilkumar, learned Counsel appearing for the petitioner, Mr.A.Tamilvanan, learned Government Advocate (Pondy) appearing for R1 to R4 & R6 and Mr.Bharatha Chakravarthy, learned counsel appearing for the 7<sup>th</sup> respondent.

3.The petitioner seeks for issuance of a writ of mandamus to forbear the respondents 2 to 6, their subordinates or any person claiming authority through them from in any manner interfering with petitioner peaceful possession and enjoyment of the house bearing door No.128, Candeen Street, Puducherry 605 001, except due process of law.

4.The petitioner would allege that the seventh respondent is attempting to forcibly evict him from the premises in question with the active assistance of Police and with the assistance of the Deputy Collector, Pondicherry, who has been impleaded by name Vincent Rayar as the fifth respondent.

5.In the affidavit filed in support of the writ petition, the petitioner would state that he is residing in the said address at Door No.128, Candeen Street, Puducherry, for more than 12 years, without any interruption and on 8.5.2010 at about 6.30 p.m., the sixth respondent and his subordinates came to his residence and under the guise of enquiry, had damaged all the immovable items kept in his house and attempted to demolish the building by bringing bulldrozer. In this regard, the petitioner has lodged a complaint with the 5<sup>th</sup> respondent Police stating that the seventh respondent claiming to be the lawful owner of the petitioner property and was staying away in France and during that period the petitioner has broken open the lock, unauthorisedly entered into the petitioner's property and illegally squatted the property.

6.It is seen that a criminal case was registered based on the complaint lodged by the petitioner in Crime No.133 of 2014, on the file of the Puducherry Grand Bazaar Police, for the alleged offence under sections 143, 448, 427, 380, 294(b), and 506 (ii) read with 149 IPC. It is also seen that the seventh respondent has also lodged a complaint against the petitioner and a case has been registered in Crime No.116 of 2014, for the alleged offence under section 448 read with 34 IPC. That apart, the complaint alleging that the petitioner is a land grabber is also seized of by the Executive Magistrate cum Tahsildar, Puducherry.

7.The learned counsel appearing for the 7<sup>th</sup> respondent would state that as the petitioner filed this writ petition, making allegations against respondents 7 & 8, and order of status quo was granted, investigation could not have been proceeded with.

8.From the affidavit it appears that except for producing certain communications and records to show that communications were received by the petitioner in the afore stated address, no document has been executed in faovur of the petitioner to prove his lawful possession. However, this Court does not wish to render any finding on the said issue, since investigation in respect of both the F.I.Rs. are now pending before the respondent police, namely, the Inspector of Police, Grand Bazaar Police, Station, Puducherry.

9.Considering the nature of allegations made by the petitioner as against the seventh respondent and the allegations made by the seventh respondent against the petitioner, this Court is of the view that investigation of the crime should be done at a higher level.

10.Accordingly, there will be a direction to the fourth respondent to transfer the Crime Nos. 116 of 2014 & 133 of 2014, now pending on the file of the the Inspector of Police, Grand Bazaar Police, Station, Puducherry, to an Officer in the rank of Superintendent of Police.

11.Accordingly the sixth respondent is directed to place all records pertaining to both the crime numbers viz. Crime Nos. 116 of 2014 & 133 of 2014, before the fourth respondent and the fourth respondent shall take up investigation of the matter, make a thorough investigation and file a final report within a period of three weeks from the date of receipt of a copy of this order. Till then, the *status quo* with regard to the property in question to maintain as such, as it is prevailing today and no further

transactions shall be entertained in respect of the property by any of the parties. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/  
Asst.Registrar

/true copy/

Sub Asst.Registrar

rpa

To

1.The Chief Secretary  
Government of Puducherry  
Office of the Secretariat, Puducherry.

2.The Collector  
Government of Puducherry  
Puducherry.

3.The Senior Superintendent of Police  
Puducherry -1.

4.The Superintendent of Police (North)  
Puducherry 1.

5.The Inspector of Police  
Grand Bazaar Police Station  
Puducherry 605 001.

+1 CC to the G.P. (Pondy), High Court, Madras, SR.No.7446.  
+1 CC to M/s. Sai Bharath & Ilan, Advocates, SR.No.7319.

W.P. No.13718 of 2014

PPA (CO)  
VS 26.02.2015

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