IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2015

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.25883 of 2015

Uniworld Logistics Private Limited,
rep. by its Authorised signatory
S.Muthu Vellayappan ... Petitioner

Vs

1.State of Tamil Nadu,
by Superintendent of Police,
Office of the Superintendent of Police,
Collectorate Campus,
Kancheepuram.

2.The Inspector of Police,
Sriperumbudur Police Station,
Sriperumbudur,
Kancheepuram District.

3.Indev Logistics Private Ltd.,
Rep. by its Managing Director
S.Xavier Britto. ... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the second respondent to register the petitioner's complaint dated 1.10.2015 and take appropriate action against the criminal trespassers.

For Petitioner : Mr.Vijay Narayan, SC
for M/s.Vimal B.Crimson

For Respondents : Mr.C.Emalias,
Addl. Public Prosecutor,
for R.1 and R.2
Mr.T.V.Ramanujam, SC,
for Mr.K.S.Arumugam,
for R.3

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ORDER

The present criminal original petition has been filed seeking a direction to the second respondent to register the petitioner's complaint dated 1.10.2015 and take appropriate action against the criminal trespassers.

2. The case of the petitioner company, in nutshell, is as follows:-

(a) The petitioner is a private limited company. They are engaged in Warehousing business to store cargo and also providing value added services like packing, repacking, labelling, etc. The petitioner has taken exclusively the entire Plot No.A (11-12) comprising 9.89 acres of land together with the Factory shed measuring to an extent of 103522 (but mentioned notionally as 150000 sq.ft.) situated in SIPCOT Industrial Park, Irungattukottai, Sriperumbudur Taluk, Kancheepuram District from the third respondent under a Leave and Licence Agreement dated 25.11.2008 on a monthly licence fee of Rs.30,00,000/- till March 2013 and thereafter, paying a sum of Rs.34,50,000/- from 1.4.2013.

(b) The third respondent has been engaged in the business of 'Inland Container Depot' in another Industrial Plot bearing No.B.7 and B.8, which is adjacent to Plot No.A (11-12). It has separate entrance duly compounded on all four sides, which is a pre-requisite to get the approval of the Ministry of Commerce, Union of India and it is a notified area. Both the Plots A (11-12) occupied by the petitioner and Plot No.B.7 and B.8 are separated by a compound wall on the middle.

(c) During August-September, 2014, on physical verification, the petitioner company came to know that the Factory shed / Warehouse building taken by them from the third respondent was only 103522 sq.ft. as against 150000 sq. mentioned in the agreement. The third respondent completely suppressed the Licence Agreement dated 25.11.2008. When the petitioner company came to know about the same, the third respondent obtained a so-called 'Warehouse Agreement dated 1.12.2010' from the petitioner company representing that it is only to satisfy the SIPCOT records and not to be acted upon. But, the third respondent has been demanding and collecting only as Licence fee 'not as storage charges' even after 1.2.2010 till 31.8.2015.

(d) While so, disputes started on that score in August-September 2014 between the petitioner and the third respondent, which resulted in exchange of notices and on 26.3.2015, the third respondent filed a suit in O.S.No.101 of 2015 before the District Munsif Court, Sriperumbudur as against the petitioner

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for permanent injunction. The petitioner has also filed written statement in the said suit. In such a situation, the third respondent appeared to have hatched a criminal conspiracy to make a forceful occupation of Plot No.A (11-12) by demolishing a portion of the compound wall to make an entry from their Plot No.B.7 and B.8, which is adjacent to the petitioner's property. To carry out the said criminal conspiracy, the second respondent had selected the date of 1.10.2015 afternoon as the date for execution, which date was followed by three continuous holidays.

(e) On 1.10.2015 at about 2.00 p.m., the third respondent headed by its Auditor J.Sivasankaran and with the help of 10 to 15 unknown anti-social elements, started demolishing the middle portion of the compound wall about 15 feet to 20 feet, which separates the Plot No.A (11-12) and Plot No.B.7 and B.8. They cleared the rubbish in their lorry. There were nearly 10 to 15 unknown persons altogether, who trespassed into the property under the exclusive possession of the petitioner company. Apprehending that the team headed by Auditor J.Sivasankaran might forcibly take possession of the Factory Shed, the petitioner put up wooden structures and also parked their bus to prevent them from trespassing into their property through the demolished portion.

(f) Thereafter, immediately, around 2.30 p.m., on 1.10.2015, the petitioner company through their Chief Operating Officer, went to the Sriperumbudur Police Station and lodged a criminal complaint about the unlawful demolition of compound wall and criminal trespass into the petitioner's property. The Chief Operating Officer of the petitioner company was called to the office of the Deputy Superintendent of Police in Sriperumbudur, where the said J.Sivasankaran was present and the Chief Operating Officer explained the pendency of the civil suit and unlawful breaking of the compound wall and the criminal trespass committed by the staff of the third respondent in order to take forcible possession of Plot No.A (11-12) in a manner known to law. Though a complaint was lodged, on 2.10.2015 at about 12 noon, the Inspector of Police along with other Constables, instead of coming to the complainant's place, chose to go to Plot No.B.7 and B.8, where the third respondent has their ICD business and from there, the Inspector of Police forced the petitioner's staff / security men to remove the wooden barricade put up by them in the demolition portion of the compound wall. The Inspector of Police with a mala fide intention went around the Factory Shed in Plot No.A (11-12) which has been under the occupation of the petitioner and then told the petitioner staff not to block the entry of the personnel of the third respondent through the demolished portion and allow the third respondent men to trespass into Plot No.A (11-12) to make an entry into the vacant land behind the Factory Shed. The staff of the petitioner company were helpless and all

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the complaints to the Sriperumbudur Police were in vain and they refused to take any action on the petitioner's complaint. Hence, left with no other alternative, the petitioner has filed the present petition to direct the second respondent to register the petitioner's complaint dated 1.10.2015 and take appropriate action against the criminal trespassers.

3. When the matter was taken up for consideration, learned senior counsel appearing for the petitioner has made a detailed argument with regard to unlawful demolition of compound wall in the petitioner's premises and submitted that the matter is purely criminal in nature, but the second respondent has refused to register the complaint.

4. Learned senior counsel appearing for the third respondent has submitted that the dispute between the parties is purely civil in nature. In fact, a civil suit is also pending before the civil Court. If the petitioner has got any grievance, they have to seek remedy only before the Civil Court. Thus, he sought for dismissal of the petition.

5. Learned Additional Public Prosecutor submitted that the complaint dated 1.10.2015 given by the petitioner is bereft of material particulars and hence, an enquiry could not be acted upon on the said complaint.

6. Considering the facts and circumstances of the case, without going into the merits and demerits of the submission made on either side, this Court passes the following order:-

(i) The petitioner is directed to give a fresh complaint to the second respondent within a period of one week from the date of receipt of a copy of this order, along with a copy of this order.

(ii) On receipt of the same, the second respondent is directed to conduct enquiry on the said complaint, and upon enquiry, if materials are gathered indicating commission of any cognizable offence, then the second respondent is directed to proceed further in accordance with law, as early as possible.

(iii) During the course of enquiry, if it is found that the matter is purely civil in nature, the second respondent shall advise the parties to approach the civil Court.

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7. The criminal original petition is disposed of accordingly.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Superintendent of Police,
Office of the Superintendent of Police,
Collectorate Campus,
Kancheepuram.

2.The Inspector of Police,
Sriperumbudur Police Station,
Sriperumbudur,
Kancheepuram District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to M/S.Vimal B.Crimson, Advocate sr.61648 [19/11/2015]
+1cc to Mr.K.s.Arumugan, Advocate sr.61861 [19/11/2015]

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