

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

W.P.No.25886 of 2015
and
M.P.No.1 of 2015

Shaharbanu

...Petitioner

-vs-

1. Mr.Vimalan
Inspector of Police,
Central Crime Branch,
Anti Land Grabbing Cell
Team XVII, Egmore, Chennai.
2. Mr.D.L.Raja
Assistant Director of Prosecution (Retd.)
147, 1st Floor, Santhome High Road,
M.R.C. Nagar, Chennai-600 028.
3. The Registrar
State Human Rights Commission,
Greenways Road, Chennai.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the records in SHRC Case No.6387/2012 pending before the State Human Rights Commission, Chennai and quash the discharge order dated 30.06.2015, discharging Mr.D.L.Raja, Assistant Director of Prosecution from the case in SHRC No.6387/2012 as ultravires and invalid.

For Petitioner : Mr.M.Velmurugan

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner claims to have a live-in relationship with Late.Dr.Ramachandra Rao, who was the owner of the property situated at No.147, Santhome High Road, M.R.C. Nagar, Chennai 600 028. The petitioner, further, claims that Late.Dr.Ramachandra Rao was a Bachelor and she alone looked after him till he passed away on 06.04.2012.

2.Disputes allegedly have occurred between the second respondent - the brother, who would be the inheritor of the property by succession and the petitioner who claims to have been residing with Late Dr.Ramachandra Rao. It is an admitted position that though on one hand the petitioner claims a long term relationship as a live-in partner, yet undisputedly Late Dr.Ramachandra Rao had not created any testamentary document bequeathing his property and thus, requiring the same to devolve by the law of succession. It may also be noticed that there is exchange of notice inter se the brothers qua the property sought to be relied upon by the petitioner, where the fourth respondent alleged that the petitioner had rented out certain portion of the properties, but Late Dr.Ramachandra Rao stated that these tenancies had been created under him. On our query, it is conceded by learned counsel for the petitioner that there was no Power of Attorney given to the petitioner to create tenancy rights in any portion and thus, there would be huge question mark in law as to how rights in immovable property can be created by a third party without a due authorisation from the owner of the property even assuming the petitioner had a live-in relationship. The response of Late Dr.Ramchandra Rao through counsel is placed on record and there is no document signed by him available in the typed set.

3.The petitioner appears to take umbrage at the fact that the second respondent was the then Public Prosecutor (now retired) and alleges that he misused his office for purposes of initiation of criminal proceedings and action against the petitioner, which had resulted in the filing of the complaint by the petitioner before the State Human Rights Commission. This complaint has been dismissed by the impugned order dated 30.06.2015.

4.A reading of the impugned order shows that a primary objection was raised regarding maintainability of the complaint on behalf of the second respondent. The Commission, in our view, has rightly noticed that the second respondent had registered F.I.Rs. and

taken recourse to law against the petitioner. Such recourse to law for protecting his perceived inheritance cannot be construed as misuse of office. It is also admitted that on arrest, the petitioner had not even been granted bail by the learned Magistrate, but she finally obtained bail from this Court.

5.The position as on date is that both civil and criminal proceedings are pending inter se the parties and the petitioner has to establish her right in the property. The proceedings before the State Human Rights Commission cannot be used for collateral purpose for resolving the aforesaid issues.

6.The State Human Rights Commission has rightly noticed that the status of the second respondent was really of a complainant and in matters of arrest, investigation or remand, no role is played by him. The second respondent was, thus, not acting in his official capacity, but is only exercising his right to proceed under law, which cannot be thwarted by the attempts of the petitioner to invoke the jurisdiction of the State Human Rights Commission.

7.As to whose legal right it is or whether there is any offence made out or not is for the competent Courts to determine.

8.We, thus, cannot fault the impugned order of the State Human Rights Commission invoking the jurisdiction under Article 226 of the Constitution of India.

9.Writ Petition, thus, stands dismissed. No costs. Consequently, M.P.No.1 of 2015 also stands dismissed.

Sd/-
Assistant Registrar(J)

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सत्यमेव जयते

Sub Assistant Registrar

sra

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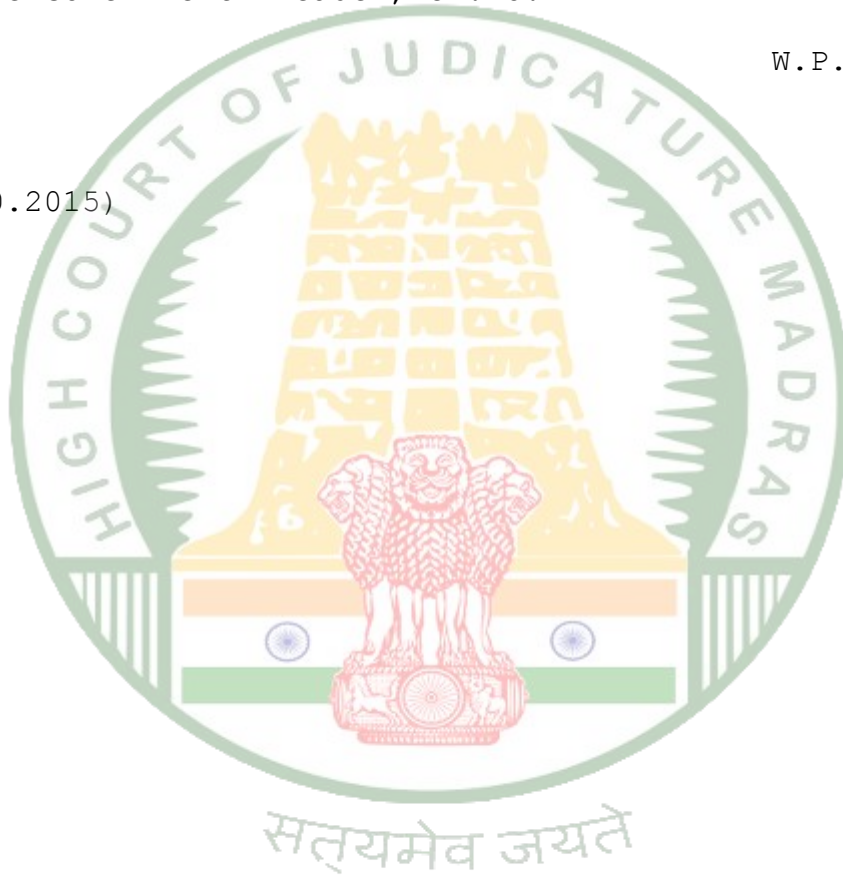
The Registrar
State Human Rights Commission,
Greenways Road, Chennai.

1 CC to Mr.M.Velmurugan, Advocate SR.No. 44613

1 CC to the Government Pleader, SR.No. 44474

W.P.No.25886 of 2015

RSK (CO)
PSI (05.10.2015)



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