

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.8.2015

CORAM:

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.30594 of 2012

L.Murthy

.. Petitioner

vs.

1.The Superintendent of Police,
Villupuram Dist.

2.The Deputy Superintendent of Police,
Ulundurpet Taluk,
Villupuram Dist.

3.Ambedkar,
Inspector of Police,
Thiruvennai Nallur Police Station,
Villupuram Dist.

4.Pulipandian
Head Constable,
Thiruvennai Nallur Police Station,
Villupuram Dist.

.. Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing respondents 1 and 2 to take action against the 3rd and 4th respondents for causing damage to the petitioner's property and direct the respondents to pay compensation to the petitioner for the damage and loss caused by the 3rd and 4th respondents.

For petitioner : Mr.A.Swaminathan
For respondents : Mr.R.Ravichandran, AGP

WEB COPY
O R D E R

Heard the learned counsels appearing on behalf of the parties concerned.

2. At this stage of the hearing of the Writ Petition, the learned counsel appearing on behalf of the petitioner had submitted that a detailed representation, dated 31.10.2012, had been submitted to the 1st respondent, giving details of the damage caused by respondents 3 and 4, to the various articles present in the house of the petitioner. He had further submitted that the act of respondents 3

and 4 is totally illegal and therefore, the 3rd and 4th respondents are liable to pay compensation to the petitioner, for the damage caused by them.

3. A counter affidavit had been filed by the 2nd respondent, denying the allegations made by the petitioner, in the affidavit filed in support of the Writ Petition. Paragraph Nos.5 to 8 of the said counter affidavit read as follows:-

"5. I submit that the Petitioner's father-in-law Mr.Annamalai and Mother-in-law Mrs.Chandra are habitually Committing the offence punishable under Tamil Nadu Prohibition Act, 1955. Several cases are pending against them in Thiruvennainallur P.S.Crime No.315/10, 408/10, 681/2010, 116/2011, 238/2011, 295/2011, 412/2011, 863/2011, 69/2010, 445/2010, 559/2010, 759/2011. I submit that the Petitioner with an ulterior motive to stall the action taken by the Thiruvennainallur Police Station has chosen to file a vexations Petition before this Hon'ble Court. I submit that the Petitioner also gave Petitions to the First Respondent and Second Respondent, containing false allegations against the Third Respondent and Thiruvennainallur Police Station.

6.Regarding the allegation made in paragraph 2 of the Affidavit that the Petitioner's house was extensively damaged and house hold articles and cash were taken away by the Third Respondent and Fourth Respondent along with three unknown persons are strongly denied. I submit that in fact, the Third Respondent was on Medical leave from 19.10.2012 to till 29.10.2012. I further submit no such person in the name of Mr.Pulipandian [Fourth Respondent herein] is working as Head constable in Thiruvennainallur Police Station. I submit that the allegations are invented for the purpose of backhauling the Police Department.

7. Regarding the averment made in Paragraph 3 of the Affidavit, I submit that it is revealed that the Petitioner is not living in the address mentioned by him in his Affidavit and it is revealed that the above said Annamalai, father-in-law and Chandra mother-in-law of the Petitioner are living in the address. I submit that the enquiry revealed that no such incident taken place as alleged by the petitioner in his petition. I submit that the Third Respondent was undergoing treatment during the period and the Petitioner invented a story to tarnish the image of the Third Respondent and stall the investigation against his father-in-law and mother-in-law.

8. Regarding the averment made in Paragraph 4 of the Affidavit, I submit that it is not correct to state that the Third Respondent along with their subordinates abusing their official power and doing the illegal activities against the Petitioner. ..."

4. The learned counsel appearing on behalf of the respondents had also submitted that the occurrence alleged by the petitioner did not take place and that the petitioner is not living in the address given by him. He had also submitted that there is no person named 'Pulipandian', working as the Head Constable in Thiruvennai Nallur Police Station, Villupuram District.

5. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records available, this Court is of the view that the allegations made by the petitioner, in the affidavit filed in support of the Writ Petition, had not been substantiated with sufficient evidence. Even otherwise, when the allegations made by the petitioner had been denied by way of a counter affidavit filed on behalf of respondents 1 to 3, this Court does not find sufficient cause or reason to grant the relief, as prayed for by the petitioner. Further, as there are disputed questions of fact involved in the case on hand, it is not possible for this Court to arrive at a definite conclusion, by invoking its jurisdiction under Article 226 of the Constitution of India. Hence, the Writ Petition stands dismissed. However, it goes without saying that it may be open to the petitioner to seek his relief, if any, before the appropriate Civil forum, if he is so advised, in the manner known to law. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gs.

To

1.The Superintendent of Police,
Villupuram Dist.

2.The Deputy Superintendent of Police,
Ulundurpet Taluk,
Villupuram Dist.

+ 1 cc to Mr.A. Swaminathan, Advocate sR.44594
+ 1 cc to the Government Pleader Sr.44711

WP 30594 of 2012

SV(CO)

EU 11.09.15