

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.03.2015

Coram

The Hon'ble Mr. Justice T.S. SIVAGNANAM

W.P. No.17956 of 2014

K.Jayabalan

.. Petitioner

Vs

1.The Secretary to Govt.,
Department of Home,
Secretariat, Chennai -9.

2.The Director General of Police,
Kamarajar Salai,
Chennai.

3.The Superintendent of Police,
Salem District,
Salem.

4.The Inspector of Police,
Poolampatti Police Station,
Salem District.

5.Venkatesan

6.C.Murugan

7.C.Murugasundaram

8.C.Shankar Ganesh

.. Respondents

Prayer :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus to forbear the respondents 3 and 4 from interfering with the civil dispute between the petitioner and the respondents 5 to 8 as to use the police force to take forcible possession of the landed properties measuring 4.80 acres comprised in S.F.No.165/3 of Vellarivelli Village, Edappadi Taluk, Salem District from the petitioner and his family members, by considering the representation dated 02.07.2014 and pass such further or other suitable orders.

For Petitioner .. Mr.N.Manokaran

For Respondents .. Mr.R.Vijayakumar

Addl. Government Pleader for RR1-4

Mr.P.Jagadeesan for R5 to R8

O R D E R

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

2. Heard Mr.N.Manokaran, learned Counsel appearing for the petitioner, Mr.R.Vijayakumar, learned counsel appearing for the respondents 1 to 4 and Mr.P.Jagadeesan, learned counsel appearing for the respondents 4 to 8.

3. The petitioner seeks for issuance of a Writ of Mandamus to forbear the respondents 3 and 4 from interfering with the civil dispute between the petitioner and the respondents 5 to 8 as to use the police force to take forcible possession of the landed properties measuring 4.80 acres comprised in S.F.No.165/3 of Vellarivelli Village, Edappadi Taluk, Salem District from the petitioner and his family members, by considering the representation dated 02.07.2014.

4. Admittedly, the dispute is between the petitioner and the private respondents 5 to 8 and the matter pertains to an immovable property. Therefore, if the petitioner has got any grievance against the private respondents or vice versa, both parties have to agitate the rights before the Civil Court. The petitioner would state that Civil Suit filed by him has been decreed in his favour.

5. The respondent would state that decree passed in the said the Suit relates to a different property and the petitioner deliberately suppressed the order passed by the Revenue Divisional Officer Sankari, dated 05.04.2013, wherein a finding has been rendered against the petitioner.

6. The petitioner on the other hand would contend that this is subject matter is pending as O.S.No.100 of 2010 on the file of District Munsif Court, Sankari. Thus, it is clear that there are allegations and counter allegations made by the petitioner and the private respondents. However, in this Writ Petition, the petitioner sought for appropriate directions against the Police Authorities alleging that they are interfering in a Civil dispute.

7. On a perusal of the counter affidavit filed by the Inspector of Police, the fourth respondent, they have categorically stated that they have not transgressed into the Civil litigation nor taken any criminal action in a civil dispute and there is no conversion of a civil dispute into criminal case.

8. In the light of the stand taken in the counter affidavit of the Inspector of Police, it would suffice to place the same on record with the further direction that the Police Authority shall not interfere in a civil dispute either at the behest of the petitioner

or the private respondents. However, this does not mean, if there is a complaint regarding cognizable offence having been committed, the respondent Police should keep silent. In such an event, it is open to the respondent Police to take action in accordance with the provisions contained in the Code of Criminal Procedure. However, if there is no such allegation of any cognizable offence committed by either party against each other, then the respondent Police shall not interfere with the civil dispute and allow the parties to agitate their rights in the pending civil proceedings or before the appropriate forum.

Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

- 1.The Secretary to Govt.,
Department of Home,
Secretariat, Chennai -9.
 - 2.The Director General of Police,
Kamarajar Salai,
Chennai.
 - 3.The Superintendent of Police,
Salem District,
Salem.
 - 4.The Inspector of Police,
Poolampatti Police Station,
Salem District.
- +1 cc to M/s.P.jagadeesan, Advocate,SR.18601
- +1 cc to M/s.N.Manokar, Advocate,SR.18328
- +1 cc to Government Pleader,SR.18391.

ad(co)
krd 21/4

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