

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.02.2015

Coram

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

Writ Petition.No.3037 of 2015
and
M.P.No.1 of 2015

Gregoriammal

...Petitioner

Vs.

1. The Assistant Commissioner of Police,
Coimbatore City Police L & O (Central)
Coimbatore - 641 018.
2. The Inspector of Police,
B3, Kattur Police Station (L & O)
Coimbatore - 641 009.
3. Ponnusamy
4. S.Karthikeyan
5. Jeyaprakash

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, forbearing the second respondent from interfering with the civil dispute between the petitioner and respondents 3 to 5 and to grant police protection to the petitioner.

For Petitioner : Mr.R.Subramanian

For Respondents 1 & 2 : Mr. S.Gunasekaran
Government Advocate

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O R D E R

This Writ Petition is filed for issuance of Writ, in the nature of Mandamus, forbearing the second respondent from interfering with the civil dispute between the petitioner and respondents 3 to 5 and to grant police protection to the petitioner.

2. Heard Mr.R.Subramanian, learned counsel appearing for the petitioner and the learned Government Advocate for first and second

respondents. Since the Writ Petition is being disposed of, at the stage of admission itself, without notice to the respondents 3 to 5, the allegations made by the petitioner against the respondents 3 to 5 are not gone into, and are left open.

3. The grievance of the petitioner is that, the second respondent-Police, at the behest of the respondents 3 to 5, is interfering with the civil dispute, pending between the petitioner and respondents 3 to 5. In this regard, the learned counsel appearing for the petitioner invited attention of this Court to the suit filed by the petitioner/plaintiff, in O.S.No.903 of 1997, on the file of the Sub Court, Coimbatore, for the relief of declaration of her right over the suit property, in which, the third respondent herein is the fourth defendant. In the said suit, it is stated that the seventh defendant has filed written statement during December, 2011. Further, the learned counsel submitted that there is an order of status-quo granted by this Court, in C.R.P.No.3003 of 1998, dated 21.12.1998, in which, the third respondent is the sole respondent. Further allegation is that, in spite of the position being thus, the second respondent-Police is interfering with the civil dispute.

4. Since the Writ Petition is disposed of, at the stage of admission itself, without notice to the respondents 3 to 5, as already mentioned supra, the correctness of the submission of the learned counsel appearing for the petitioner, cannot be gone into, at this stage. However, this Court is inclined to state the legal position in this regard. The second respondent, being a law enforcing agency and Inspector of Police, obviously, is vested with right to enquire into the matter, if any complaint is lodged before him, but before doing so, he is expected to examine as to whether there is any allegation of cognizable offence, alleged to have been committed by the person, against whom, complaint is lodged, it is only thereafter, he can proceed further in accordance with law. Further, if the matter appears to be purely of civil in nature, then, the second respondent-Police is expected not to interfere in the matter and allow the parties to agitate their rights before appropriate forum, so to say Civil Court.

5. Therefore, if any complaint has been given by the respondents 3 to 5 against the petitioner, the first and foremost thing to be done by the second respondent-Police is to find out, as to whether the matter is of civil in nature or any criminal offence is made out. In fact, the petitioner has submitted a detailed representation to the first respondent, on 10.01.2015, setting out all facts.

6. In the light of the above, there shall be direction to the second respondent-Police to take note of the legal position, as stated supra. If on enquiry, it is found that the matter between the

parties (viz., petitioner and respondents 3 to 5 herein) appears to be of civil in nature, then the second respondent-Police shall not interfere in their matter and allow the parties to workout their remedies before the Civil Court. In case, cognizable offence is made out, then the second respondent-Police is entitled to proceed further in accordance law, by following the dictum laid down by the Hon'ble Apex Court in re Lalita Kumari vs. Govt. of U.P. & others, reported in [2013 (4) Crimes 243 (SC)]. However, there shall not any harassment done to any persons, while proceeding further.

7. With the above observations, the Writ Petition is disposed of. No costs. Consequently, connected M.P. is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Commissioner of Police,
Coimbatore City Police L & O (Central)
Coimbatore - 641 018.
2. The Inspector of Police,
B3, Kattur Police Station (L & O)
Coimbatore - 641 009.

1 cc to Mr.R.Subramanian ,Advocate, SR.No.6751
1 cc to Government Pleader, Sr.No6651

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pmk.25.2.2015

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