

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.8.2015

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.31101 of 2012

SMT.RAHAMATH NISHA

[PETITIONER]

Vs

- 1 THE DISTRICT COLLECTOR
NAGAPATTINAM DISTRICT
NAGAPATTINAM
 - 2 THE DISTRICT SOCIAL WELFARE OFFICER
COLLECTORATE OFFICE,
NAGAPATTINAM
 - 3 AHAMED THAMBI MARAKAAYAR
S/O.MOHAMMED HANIFFA
JINNA THERUVAI
THULASYA PATTINAM VILLAGE AND POST
VEDARANYAM TALUK
NAGAPATTINAM DISTRICT
 - 4 SMT.RASHEEDHA AMMAL
W/O.AHAMED THAMBI MARAKAAYAR
JINNA THERUVAI
THULASYA PATTINAM VILLAGE AND POST
VEDARANYAM TALUK
NAGAPATTINAM DISTRICT
- [RESPONDENTS]

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 2nd respondent to register the complaint against the father-in-law and mother-in-law of the petitioner, the 3rd and 4th respondents herein under the Protection of Women from Domestic Violence Act, 2005 in accordance with law, complete the investigation and to restore the possession of the matrimonial home to the petitioner within a time frame as fixed by this Honourable Court.

For petitioner : Mr.S.Sathiamurthi
For respondents : Mr.R.Ravichandran
AGP for R1 and R2

O R D E R

Heard the learned counsels appearing on behalf of the petitioner and the first and the second respondents. In spite of the Private notice having been served on the respondents 3 and 4 and their names having been printed in the cause list, there is no appearance on their behalf, either in person or through a counsel.

2. This writ petition has been filed by the petitioner praying that this Court may be pleased to issue a writ of Mandamus to direct the second respondent to register a complaint against the third and the fourth respondents in the writ petition, under the Protection of Women from Domestic Violence Act, 2005.

3. The petitioner has stated that the father-in-law and the mother-in-law of the petitioner, who are the third and the fourth respondents herein, had been ill-treating her, demanding a car as dowry. The petitioner had also been driven out from the matrimonial home. Even though the petitioner had given birth to a male child, the third and the fourth respondents did not come to see the child.

4. It has also been stated that the husband of the petitioner is employed in Dubai. Therefore, the petitioner is living with her parents, at Muthupettai, in Thiruvavur District. In such circumstances, the petitioner had preferred a complaint, on 24.9.2011, before the Inspector of Police, All Women Police Station, Vedaranyam. A complaint had also been made to the Superintendent of Police, Nagapattinam District. A representation had also been made before the District Social Welfare Officer, Collectorate office, Nagapattinam District, the second respondent herein. However, no action had been taken by the said authorities against the third and the fourth respondents. Hence, the petitioner had preferred a Criminal Original Petition before this Court, in CrI.O.P.No.30336 of 2011, under Section 482 of the Criminal Procedures Code.

5. The learned counsel appearing for the petitioner had further submitted that the Criminal Original Petition had been disposed of directing the police officials concerned to take appropriate action in the matter. However, the police officials concerned had closed the matter stating that the facts stated by the petitioner had not been made out.

6. In view of the submissions made by the learned counsels appearing for the parties concerned and in view of the averments made in the affidavit filed in support of the writ petition and on a perusal of the records available, this Court is of the considered

view that the relief prayed for by the petitioner cannot be granted, under Article 226 of the Constitution of India. The petitioner ought to have taken further steps, if so advised, to prosecute the third and the fourth respondents, in accordance with the relevant provisions of law, including the provisions of the Protection of Women from Domestic Violence Act, 2005. As such, it would not be open to the petitioner to prefer the writ petition before this Court invoking its jurisdiction, under Article 226 of the Constitution of India. Hence, the writ petition stands dismissed. No costs. Connected M.P.No.1 of 2012 is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

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To:

1 THE DISTRICT COLLECTOR
NAGAPATTINAM DISTRICT
NAGAPATTINAM

2 THE DISTRICT SOCIAL WELFARE OFFICER
COLLECTORATE OFFICE,
NAGAPATTINAM.

1 cc to Mr..S.Sathiamurthi, Advocate Sr.No.45092

1 cc to Government Pleader.Sr.No.45394

W.P.No.31101 of 2012

ksj (co)

pmk.10.9.2015

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