

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.8418 of 2014

and

M.P.No.1 of 2014

Nirmala .. Petitioner

Vs.

- 1.The Home Secretary,
Home Department,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.
- 2.The Director General of Police,
O/o the Director General of Police,
Mylapore, Chennai-600 004.
- 3.The Commissioner of Police,
Egmore, Chennai-600 008.
- 4.The Inspector of Police,
Law & Order, Neelankarai Police,
Chennai.
- 5.The Joint Director,
Central Bureau of Investigation,
Shastri Bhavan, Chennai.
- 6.V.Annamalai. .. Respondents

The writ petition is filed under Article 226 of the Constitution of India praying for the issue of a writ of mandamus, directing the fifth respondent to investigate the death of the petitioner's husband Mr.Sainath and consequently, direct the first respondent to pay a fair compensation to the petitioner, considering the circumstances of the case.

For Petitioner : No appearance
For Respondents : Mr.R.Ravichandran, AGP for RR1
to 4
No appearance for RR5 and 6
- - - - -

ORDER

There is no representation on behalf of the petitioner, as well as the respondents 5 and 6. Heard the learned counsel appearing on behalf of the respondents 1 to 4.

2 This writ petition has been filed by the petitioner, praying that this Court may be pleased to issue a Writ of Mandamus, directing the fifth respondent to investigate the death of the petitioner's husband, namely, Sainath, and consequently, direct the first respondent to pay fair compensation to the petitioner, considering the facts and circumstances of the case.

3 The petitioner has stated that her husband, who was aged about 75 years, was a social worker and he was the President of the local residents Welfare Association. In that capacity, he had filed a writ petition before this Court, in W.P.No.31073/2007, for the removal of the encroachments, in Vettuvankeni-Injambakkam public road, Chennai. Annoyed by the activities of the husband of the petitioner, namely, Sainath, the encroachers had assaulted him, on several occasions, when he had gone to the place in question, along with the authorities of the Corporation, for the removal of the encroachments.

4 It has been further stated that, in spite of a number of complaints made to the local police, in this regard, stating that certain rowdy elements had attacked the husband of the petitioner, on the instigation of Annamalai, the local Municipal Councilor, no action had been taken by the police officials. While so, the husband of the petitioner had died, on 1.3.2013, due to the injuries sustained by him, on 16.02.2013. In such circumstances, the petitioner has preferred the present writ petition before this Court, under Article 226 of the Constitution of India.

5 The learned counsel appearing on behalf of the respondents 1 to 4 had submitted that the issues raised by the petitioner, in the present writ petition, cannot be decided by this Court, under Article 226 of the Constitution of India. While denying the allegations made by the petitioner, in the affidavit filed in support of the writ petition, the learned counsel appearing on behalf of the respondents 1 to 4 had submitted that a First Information Report had been registered, based on the claims made by the petitioner, in Crime No.311/2013. The matter had been taken for trial, by the Judicial Magistrate, Alandur, in C.C.No.431 of 2013. However, no records or materials had been produced by the petitioner, till date, to show that the death of her husband was due to the alleged incident.

6 In view of the averments made in the affidavit filed in support of the writ petition and in view of the submissions made by the learned counsel appearing on behalf of the respondents 1 to 4 and on perusal of the records available, this Court is of the considered view that the relief prayed for by the petitioner, in the present writ petition, cannot be granted, by

this Court, at this stage. Further, in view of the disputed facts, the present writ petition filed by the petitioner is liable to be dismissed.

7 It is also noted that a First Information Report had been registered, based on the complaint made to the police, with regard to the incident alleged to have taken place, in Crime No.311 of 2013. It is also noted that the matter had been taken on file, by the Judicial Magistrate, Alandur, in C.C.No.431 of 2013 and the said case is pending disposal. While so, it is not for this Court to direct further investigation into the matter, in respect of the alleged occurrence, and to direct the first respondent to pay compensation to the petitioner, as prayed for in the present writ petition. It goes without saying that the issue relating to the alleged occurrence, said to have taken place, on 16.2.2013, which is stated to have led to the death of the husband of the petitioner, would come to light, during the trial, in C.C.No.431 of 2013, pending on the file of the Judicial Magistrate, Alandur. In such circumstances, no orders are necessary in the present writ petition, at this stage. Hence the writ petition is dismissed, as it is pre-mature in nature. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

- 1.The Home Secretary,
Home Department,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.
- 2.The Director General of Police,
O/o the Director General of Police,
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- 3.The Commissioner of Police,
Egmore, Chennai-600 008.
- 4.The Inspector of Police,
Law & Order, Neelankarai Police,
Chennai.

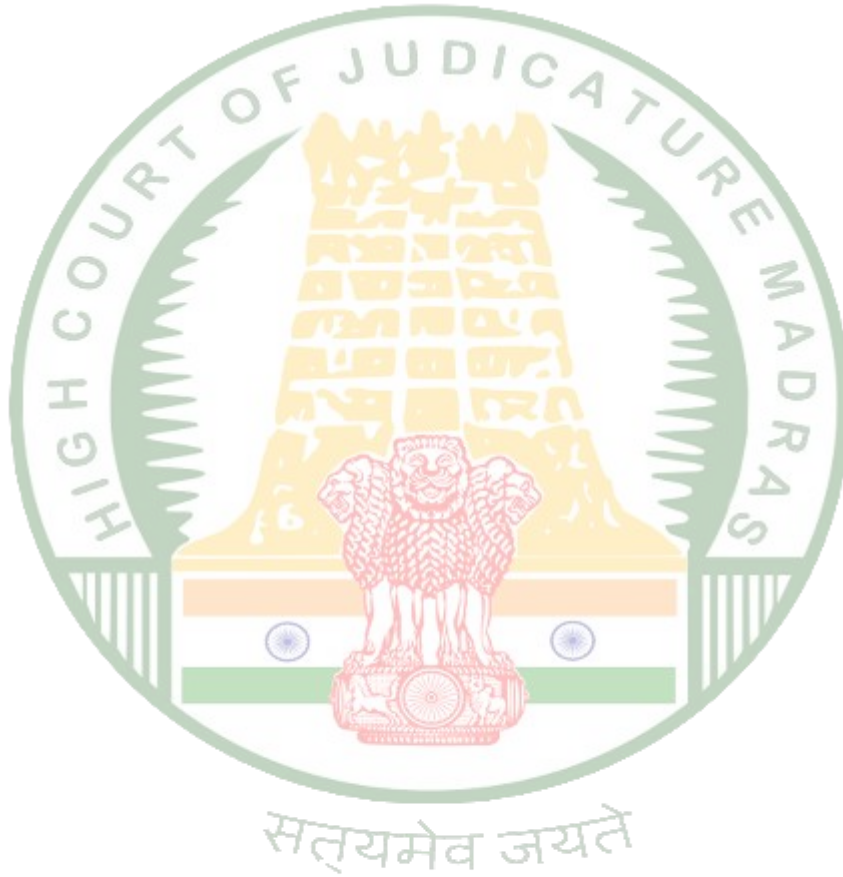
5.The Joint Director,
Central Bureau of Investigation,
Shastri Bhavan, Chennai.

+1 cc to m/s.A.P.Surya prakasam, advocate,sr.42777

+1 cc to Govt.Pleader,sr.42417.

nr(co)
krd 23/8

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