

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.18718/2016

S.Ramesh

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Petitioner

Versus

1 The Inspector of Police
E1 Mylapore Police Station
Chennai.

2 P.Dhanapalan

..

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus directing the 1st respondent not to interfere with the civil rights of the petitioner in respect of the property in Old.D.No.114 New No.113/1 situated at Santhome Highway, Santhome, Chennai.

For Petitioner : Mr.G.Maruthiah

For Respondents : Mr.R.Vijayakumar, AGP for R1
Mr.ARL.Sundaresan,
Senior Counsel for
Mr.M.Murugan, for R2

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner, in the affidavit filed in support of this writ petition, would aver, among other things that he is the lessee in respect of the building bearing Door Old No.114, New No.133/1, Santhome High Road, Chennai-4 and the 2nd respondent herein is the owner of the said property and the petitioner put the said building on lease by virtue of a registered Sale Deed dated 12.03.2008 and running a Hotel business and according to him, the lease period is for a period of twelve years, commencing from 12.03.2008 and expires on 11.03.2020. The petitioner would further state that for the past 8 years, he was paying the rent regularly and remains in peaceful possession and enjoyment of the same and also invested huge sum of money in connection with the hotel business. The petitioner would also state that in the year 2012, the 2nd respondent started demanding higher rent and advance amount and the petitioner refused to accede to the said unreasonable demand. The 2nd respondent has also filed a suit in OS No.4434/2015 on the file of the Court of XVI Assistant Judge,

City Civil Court, Chennai, against the petitioner herein, praying for cancellation of the Rental Agreement dated 12.03.2008 and the petitioner, after entering appearance, also filed a written statement refuting the allegations made in the plaint. Since the petitioner apprehended that he may be evicted without due course of law, filed a suit in OS.No.5704/2015 on the file of the Court of XII Assistant Judge, City Civil Court, Chennai, praying for permanent injunction, restraining the defenant therein or their men, from evicting or disturbing him except in accordance with law and pending disposal of the suit, also filed an Interlocutory Application in IA.No.14299/2015 praying for an interim injunction and notice has been ordered and both suits are pending adjudication. The grievance or apprehension expressed by the petitioner is that the 2nd respondent has lodged a false complaint on the file of the 1st respondent, which has been taken on file in CSR.No.600/2016 on 26.05.2016 and the petitioner was called upon to appear before the said official for enquiry and during the course of enquiry, the 1st respondent threatened the petitioner to vacate from the said premises. Therefore, he is constrained to approach this Court making complaint about the illegal acts of the 1st respondent.

3 The learned counsel for the petitioner would submit that though it is open to the 1st respondent to proceed against the petitioner in accordance with law, he has no jurisdiction or vested with any power to order the eviction or give direction to vacate the petitioner from the said premises as it falls within the exclusive jurisdiction of the competent Civil Court and the 1st respondent with an oblique motive is acting with the 2nd respondent and threatening the petitioner to vacate from the said premises, failing which, he will be dispossessed forcefully and therefore, prays that appropriate orders may be passed, by restraining the 1st respondent from doing so.

4 Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice on behalf of the 1st respondent, has produced the Case Diary relating to CSR.No.600/2016 and would submit that based on the complaint given by the 2nd respondent, the matter is being enquired into and deny the allegation that the 1st respondent is forcing the petitioner to vacate from the said premises.

5 Mr.Ar.L.Sundaresan, learned Senior Counsel instructed by Mr.M.Murugan, learned counsel appearing for the 2nd respondent would contend that the registered Sale Deed dated 12.03.2008 is not disputed by the petitioner herein and even according to the said Lease Deed, only 270 sq.ft. has been leased out and whereas the petitioner is claiming right in respect of 810 sq.ft. and is a encroacher/trespasser and on account of the misdeeds only, the 2nd respondent is constrained to lodge a complaint and the 1st respondent is conducting enquiry in accordance with law and prays for dismissal of the writ petition.

6 This Court has carefully considered the rival submissions and also perused the materials placed before it.

7 The Schedule of the property annexed to the Registered Sale Deed dated 12.03.2008 would disclose that out of 810 sq.ft.,/the plinth area of the superstructure, the undivided 270sq.ft. has been leased out to the petitioner. The petitioner in the suit filed by him in OS.No.5704/2015, has given the measurement of the said scheduled property as 810 sq.ft. and according to the learned counsel for the petitioner, by means of an oral agreement, the petitioner was given possession, over and above 270 sq.ft. of superstructure. When this Court put a question to the learned counsel for the petitioner as to whether any averment is there to that effect in the suit filed by him in OS.No.5704/2015, the learned counsel would submit that inadvertently it has been omitted to be stated so.

8 Be that as it may, if the petitioner is aggrieved by the alleged misdeeds of the 1st respondent, it is open to him to bring it to the knowledge of his higher officials and in the absence of any representation, this Court is not in a position to order this writ petition.

9 In the result, the writ petition is dismissed. No costs. However, if the petitioner is so aggrieved with regard to the alleged misdeeds of the 1st respondent, it is always open to the petitioner to approach the higher officials in the form of representation, expressing his grievance.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

AP

To

The Inspector of Police
E1 Mylapore Police Station
Chennai.

1 cc to Mr. Maruthiah, Advocate, Sr. 29449
2 ccs to Mr. Murugan, Advocate, Sr. 29573

W.P.No.18718/2016

MG (CO)

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