

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N.PRAKASH

W.P.No.7539 of 2013

K.Nachimuthu

..... Petitioner

vs.

1 The Superintendent of Police,
O/o. Superintendent of Police,
Tirupur District.

2 The Inspector of Police,
Kamanaickan Palayam Police Station,
Tirupur District.

3 Vijayalakshmi

4. Manoharan

5. Duraisamy

6. Arumugam

..... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any other appropriate order or direction in the nature of writ directing the 1st respondent to take against the 2nd respondent for colluding with the 6th respondent for taking illegal possession of the petitioner's property, situate in S.F.No.28/2A having an extent of 4.70 acres in Ottamkadu, Karadivavi, Palladam Taluk, Tirupur District and restore possession of the land as on 20.01.2011 to the petitioner.

For Petitioner : Mr.Su. Srinivasan
For R1 & R2 : Mr.V.Jayaprakash Narayanan
Special Government Pleader
For R6 : Mr.L.Mouli

ORDER

This writ petition has been filed to issue a Writ of Mandamus directing the 1st respondent to take action against the 2nd respondent for colluding with the 6th respondent for taking illegal possession of the petitioner's property, situate in S.F.No.28/2A having an extent of 4.70 acres in Ottamkadu,

Karadivavi, Palladam Taluk, Tirupur District and restore possession of the land as on 20.01.2011 to the petitioner.

2. Heard Mr.Su.Srinivasan, learned counsel for the petitioner, Mr.V.Jayaprakash Narayanan, learned Special Government Pleader for the respondents 1 and 2 and Mr.L.Mouli, learned counsel for the sixth respondent.

3. For the sake of convenience, the parties will be referred to by their name.

4. Nachimuthu is the brother of Karuppathal and they had inherited certain properties. Karuppathal filed O.S.No.527 of 1995 before Sub Court, Tirupur against Nachimuthu for partition and obtained an ex parte decree. While so, it appears that Karuppathal had died and her daughter Vijayalakshmi sold the property to one Manoharan and Duraisamy, who, in turn, had given Power of Attorney to one Ponneswari. On the strength of the Power of Attorney, Ponneswari has sold the land to her husband Arumugam, the 6th respondent herein. It is alleged by Nachimuthu that Arumugam attempted to forcibly take possession of the property from him by using the police.

5. Mr.V.Jayaprakash Narayanan, learned Special Government Pleader, submitted that on the complaint given by Nachimuthu, a case in Cr.No.399 of 2009 was registered and after completing the investigation, the police have filed Final Report in S.T.C.No.2793/2016 before the Judicial Magistrate, Palladam against the 6th respondent Arumugam and his wife Ponneswari and the case is pending trial. Similarly, on the complaint given by Arumugam, a case in Cr.No.677 of 2011 was registered and after completing the investigation, the police have filed Final Report in CC No.50/2012 before the Judicial Magistrate, Palladam against Nachimuthu and that case is also pending.

6. Apart from the criminal prosecution, there are civil suits pending between the parties, inasmuch as Nachimuthu has filed an application for setting aside the ex-parte decree obtained by Karuppathal. Nachimuthu has also filed civil suits for injunction and other reliefs against various parties. It is the grievance of Nachimuthu that the police have been acting in a very biased manner in support of the sixth respondent Arumugam, who is said to have attempted to illegally dispossess Nachimuthu.

7. The incident in question had taken place in the year 2013 and now, in the year 2016, much water has flown under the bridge, inasmuch as the parties are litigating in civil courts.

8. Under such circumstances, the respondents 1 and 2 are directed not to interfere in the civil disputes between the parties and allow them to work out their remedy in the manner known to law before the civil fora.

With the above directions, this writ petition is closed.
Connected M.P. is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1 The Superintendent of Police,
O/o. Superintendent of Police,
Tirupur District.
- 2 The Inspector of Police,
Kamanaickan Palayam Police Station,
Tirupur District.

+1cc to M/S.Su.Srinivasan, Advocate Sr.72343
+1cc to the Government Pleader Sr.72647
+1cc to M/S.L.Mouli, Advocate Sr.72572

W.P.No.7539 of 2013

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srg 10/01/2017

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