

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R. SUBBIAH

W.P.NO.5350 OF 2016

Mr. K. Karunakaran

.. Petitioner

Vs.

1.The Inspector of Police,
R-2, Kodambakkam Police Station,
Kodambakkam,
Chennai 600 0024.

2. Mrs.K.Gomathi

3. Mrs.K. Subha

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the 1st respondent herein to consider and pass orders on petitioner's representation dated 1.2.2016 for directing the respondents not to interfere in petitioner's peaceful possession pending disposal of O.S.No.5743 of 2012 on the file of XIII Assistant City Civil Court, Chennai.

For Petitioner : Mr.Devaraj Mahesh

For Respondents : Mrs.P.Rajalakshmi,
Government Advocate.

ORDER

The petitioner has come forward with this Writ Petition seeking for a mandamus upon the 1st respondent to consider and pass orders on petitioner's representation dated 1.2.2016 requesting him not to interfere with the petitioner's peaceful possession till the disposal of the suit in

O.S.No.5743 of 2012 pending on the file of XIII Assistant City Civil Court, Chennai.

2. It is the case of the petitioner that originally the property bearing Plot No.451, 7th Cross Street, Trustpuram, Kodambakkam, Chennai 600 024 was allotted to one Mr.Kalimuthu, who is the father of petitioner by Tamilnadu Slum clearance Board under Lease cum Sale agreement. Pending the said Lease cum Sale Agreement, since the said Kalimuthu died, the property was reallocated in favour of Mrs Ambikapathy who is the mother of the petitioner and executed a registered sale deed in her favour. Subsequently, the petitioner's mother settled the property in favour of petitioner by a registered settlement deed dated 26.4.2002. Despite the above fact, the 2nd and 3rd respondents herein, who are the other legal heirs of petitioner's father has filed a suit for partition in the year 2012 in O.S.No.5743 of 2012 before the XIII Assistant City Civil Judge, Chennai and the same is pending till date.

3. Further as the procedures and standing orders of the Slum Clearance Board is against the claim of 2nd and 3rd respondents, who are the other legal heirs of petitioner's father, they have given a complaint against the petitioner before the 1st respondent. In spite of the fact that a civil suit is pending in respect of the property, the 1st respondent is pressurising the petitioner to accept for partition and execute partition deed and also threatening the petitioner, due to which, the petitioner is not able to

continue his business. Hence he made a representation dated 1.2.2016 to the 1st respondent requesting him not to interfere with his peaceful possession, but the respondent did not take action on the petitioner's representation. Hence the petitioner has filed the present writ petition.

4. I have heard the submissions made on both sides.

5. When the matter is taken up for consideration, the learned Government Advocate submitted that the 2nd respondent and 3rd respondents have given an undertaking before the 1st respondent that they will not interfere with the peaceful possession of the petitioner pending disposal of O.SNo.5743 of 2012 before the XIII Assistant City Civil Judge, Chennai and hence the complaint lodged by the 2nd respondent against the petitioner has been closed on 1.2.2016 as the matter is purely civil in nature and she has also produced a closure report to that effect.

6. Recording the submissions of the learned Government Advocate appearing for the 1st respondent, since the complaint itself has been closed as the matter is civil in nature, now nothing survives in this writ petition for adjudication. Therefore this writ petition is closed. No costs.

17.2.2016

msr

R. SUBBIAH, J.

msr

To

The Inspector of Police,

R-2, Kodambakkam Police Station,
Kodambakkam,
Chennai 600 0024.

W.P.NO.5350 OF 2016