

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. No.195 of 2016 and C.M.P. No.2926 of 2016

V. Vengadasalam

Petitioner

Vs.

- 1 Dr. Louis Cannaiya
- 2 The Additional Secretary (Home)
Home Department
Puducherry
- 3 The District Collector
Department of Revenue and Disaster Management
Government of Puducherry
Puducherry
- 4 The Tahsildar
Taluk Office Oulgapet
Puducherry
- 5 The Senior Superintendent of Police (L & O)
Puducherry
- 6 The Station House Officer
Lawspet Police Station
Karavadakuppam Oulgapet
Puducherry

Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 19.08 2015 passed in W.P. No.34572 of 2013.

WP.No.34572 of 2013: This Writ Petition No.34572/13 was filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari and Mandamus Calling for the records relating to the order No.11024/ REV/B2G dated 10.12.2013 passed by the 2nd respondent and quash the same and consequently direct the respondents 1 to 5 to remove the wall put up by the 6th respondent in R.S.No.152/4 Karuvadikuppam Revenue Village Oulgaret Pondicherry of the same.

For appellant Mr. S. Sethuraman

For R1 Mr. S. Silambanan, Sr. Counsel
for Mr. G. Sivashankar

For RR 2 to 6 Mr. M. Govindaraj
Government Pleader (Puducherry)

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

With the consent of the learned counsel for the parties, the writ appeal is taken up for final disposal.

2 This writ appeal is focussed against the order dated 19 August 2015 passed in W.P. No.34572 of 2013.

3 To avoid prolixity, the parties are referred to as per their arraignment in this writ appeal.

4 The brief facts leading to the filing of this writ appeal are that the appellant filed a suit in O.S. No.460 of 1982 on the file of the II Additional District Munsif Court, Pondicherry, seeking declaration of title and possession of three pieces of immovable properties. The said suit was decreed vide judgment dated 24 February 1988. The said judgement was confirmed in Appeal Suit being A.S. No.104 of 1988 on the file of the Principal District Court, Pondicherry and also in Second Appeal being S.A. No. 1389 of 1989 on the file of this Court. After taking delivery of property in 'B' and 'C' schedules, the appellant filed an execution petition for taking delivery of 'A' schedule property which was allowed. The Appeal Suit, Second Appeal and Special Leave Petition filed against the allowing of the execution petition were dismissed. Such being the position, the third respondent, vide order dated 10 December 2013, directed the appellant to approach the Station House Officer of the concerned police station qua security for taking possession of the property in question. In the said order, a copy of which was marked to the sixth respondent as well, a positive direction was given to the sixth respondent to provide necessary protection to the appellant and register complaints, if any, given by the appellant. Assailing the said order passed by the third respondent and also seeking a direction to respondents 2 to 6 to remove the wall put up by the appellant, the first respondent preferred the instant writ petition being W.P. No.34572 of 2013. The learned Single Judge, finding that the positive direction given to the sixth respondent warrants interference, accordingly set aside the said positive direction and partly allowed the writ petition. Feeling aggrieved by the said order, the appellant is before us.

5 The appellant's primordial grievance qua the order rendered by the learned Single Judge, sought to be impugned in this writ appeal is that the police authorities are not taking cognizance of the complaint made by him, when the first respondent is encroaching upon his area, causing law and order problem. The appellant's other grievance is that the observations made by the learned Single Judge are coming in the way of filing complaint and taking assistance of the police as well as other authorities.

6 The learned Senior Counsel appearing for the first respondent as well as the learned Government Pleader appearing for the official respondents fairly submits that there is no such observation in the order passed by the learned Single Judge, which prevents the police and other authorities from taking cognizance of subsequent complaint, if any. Thus, liberty may be given to both the appellant and the 1st respondent to make a complaint, if necessary, with a direction to the authorities to examine the complaint as and when made and take action on its own merits and in accordance with law.

7 In view of the above submission made by the learned Senior Counsel appearing for the 1st respondent and the learned Government Pleader, it is ordered accordingly.

The writ appeal stands disposed of with the aforestated observation. Costs made easy. Connected C.M.P. is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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Karavadakuppam Oulgapet
Puducherry

+1 cc to Government Pleader Pondicherry Advocate
sr.15844

+1 cc to Mr.G.Sivashankar Advocate sr.15650

+1 cc to M/s.S.Sethuraman Advocate sr.15917

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