

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.09.2016

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
The Honourable Mr.Justice R.MAHADEVAN

W.P.No.31091 of 2016

D.Manjula

.. Petitioner

Versus

1. The Chairman
State Human Rights Commission,
Tamil Nadu, 'Thiruvaram',
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai 600 028.

2.Thiru Kumaravel
Assistant Commissioner of Police
Ambattur, Chennai,
now working at Deputy Superintendent of Police,
Uttukottai,
Tiruvellore District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus, to call for the entire records pertaining to passing of the orders dated 20.06.2016 in SHRC.No.8043/10 by the 1st respondent herein namely the State Human Rights Commission, Chennai and quash the same and take appropriate action against the 2nd respondent for violation of human rights against the petitioner.

For Petitioner : Mr.C.Umashankar

For Respondents: Mr.M.K.Subramanian
Government Pleader
for R.1 and R.2

O R D E R

(The Order of the Court was made by The Hon'ble The Chief Justice)

The inter se dispute between the divorced couple is sought to be given a colour of a Human Rights Violation, and the allegation is that the police unauthorisedly intervened in the matter.

2. The complaint filed by the petitioner/wife, after recording of evidence, has been dismissed by the State Human Rights Commission vide the impugned order dated 20.06.2016.

3. On a perusal of the impugned order and the documents on record and on the basis of the submission of the petitioner, what emerges is that the property in question, being Plot No.172, was purchased by the mother of the second respondent/husband in the year 1965 and she executed a deed of settlement in favour of her son in 1984, on which a house was constructed in 1985. This happened prior to the marriage and the petitioner and the second respondent, who are now divorced. The other aspect which emerges is that the adjacent Plot No.172 was jointly purchased by the two parties after their marriage and the Plot stood in the name of the petitioner and the possession was also with the petitioner, when the house was constructed jointly by the two parties. This house is in possession of the petitioner, wherein she is stated to be residing. The petitioner, however, claimed rights even on Plot No.171.

4. It is the case of the husband that the petitioner was seeking to lock up that house and deprive him of the enjoyment of Plot No.171 and the house thereon. A proceeding is stated to have been held by the Panchayat at the instance of both the parties, where a sum of Rs.3 lakhs was agreed to be paid to the petitioner by the second respondent, but the amount was not paid. This is what is stated to have given rise to further disputes.

5. In the aforesaid circumstances, on the complaint of the husband, the police intervened to ensure that the enjoyment of Plot No.171 by the husband was not obstructed. In this process, an agreed document was executed by the petitioner, which is subsequently sought to be challenged by stating that the same was done under certain force and the police should not have intervened.

6. In the conspectus of the dispute, now the focus is sought to be shifted on the police which had looked into the matter and the complaint before the State Human Rights Commission was filed.

7. In the course of arguments, learned counsel for the petitioner contends that the dispute being civil in nature, the police should not have intervened. It is trite to say that civil disputes have to be decided by the civil court and not by the police. However, in the given facts of the case, the enjoyment of a property owned by the husband was sought to be obstructed on the plea of having contributed to the construction of the house, while the petitioner was residing in the adjacent house fully, where the respondent No.2/husband is claimed to have contributed. If the parties want to agitate any claim in respect of moneys of property, that would have to be tried by the civil court, but the second respondent/husband cannot be made to go through the rigours of civil proceedings, while simultaneously being deprived of the enjoyment of his own house, as it is a fact that the petitioner has her own residence in the adjacent property.

8. In the given facts of the case, we cannot fault the impugned order passed by the State Human Rights Commission, Chennai.

9. The writ petition accordingly stands dismissed, leaving the parties to bear their own costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Chairman, State Human Rights Commission,
Tamil Nadu, 'Thiruvaram', No.143, P.S.Kumarasamy Raja
Salai,
(Greenways Road), Chennai 600 028.

+2cc to Mr.C.Umashankar, Advocate Sr.50727

+1cc to the Government Pleader Sr.50852

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