IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2017

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No. 2989 of 2017
& WMP. No.2868 of 2017

Dr.Rajkumar ... Petitioner

Vs

1. The Secretary
Ministry of Home Affairs,
Union of India,
Grih Mantralaya New Delhi.

2. The Secretary
Department of Personnel and Training,
Union of India, New Delhi.

3. The Director
Central Bureau of Investigation,
CGO Complex, Lodhi Road,
New Delhi.

4. The Chief Secretary to Government
State of Tamil nadu,
Secretariat, Chennai- 600 009.

5. The Secretary to Government
State of Tamil Nadu
Department of Home Affairs,
Fort St. George,
Chennai- 600 009.

6. The Director
Directorate of Vigiliance and Anti-Corruption(DVAC) NCB-21 to 28 P.S.
Kumarasamy Raja salai,
Raja Annamalaipuram,
Chennai- 600 028.

7. The Commissioner of Income Tax
Nungambakkam High Road,
Chennai.

8. Mr.HM Jayaram IPS.
Former Superintendent of Police,
Namakkal District at present
IG of Police Head Quarters,
Tamil Nadu.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, to call for the records of the 6th respondent made in proceedings in Petn.No.6975/2015/Pub/CC-I dated 25/08/2015 and quash the same and consequently direct the 3rd respondent to investigate the case and proceed in accordance with law.

For Petitioner	:	Mr.N.Umapathi
For Respondents 1 to 3	:	Mr.K.S.Jeyaganesan
For Respondents 4 to 7	:	Mr.S.Rajeswaran. SPL GP
For Respondent-8	:	Mr.K.Sridhar

O R D E R

The present writ petition has been filed seeking to quash the order of the sixth respondent in proceedings Petn.No.6975/2015/Pub/CC-I dated 25/08/2015.

2. The crux of the writ petition is that the petitioner is a land owner and the eighth respondent herein was his tenant for quite some time in the year 2001. There had been dispute between the parties while vacating the premises. It is the case of the petitioner that since the eighth respondent is a police officer, who build ill-will against him, had given a complaint against him and on consequent upon which the Income Tax officials conducted a raid in his house as well as in the hospital on 04.06.2002. The raid continued till 05.06.2002. During such Income Tax raid, deposits receipts worth of Rs.90 Lakhs, 25 Lakhs, 25 Lakhs, 30 Lakhs and Rs.10 Lakhs were taken. According to the petitioner, those receipts were belongs to him and his wife. There was a further deposit of Rs.59,75,000/- also. It is his further case that out of the said sum of Rs.59,75,000/- a sum of Rs.15 Lakhs was withdrawn and the same was misappropriated by the authorities. According to him, this has been done in collusion with petitioner's auditor one Sundaram. However, he preferred a criminal complaint and the same is also pending. He had also made representation to the Commissioner of Income tax alleging the irregularities committed by the eighth respondent. With the efforts taken by the petitioner a criminal complaint came to be registered against the eighth respondent in Crime No.2021 of 2003 for offences

under Sections 427, 380 of IPC and a final report had also been filed before the learned Judicial Magistrate-I, Namakkal on 05.02.2004. According to the petitioner, he was not served with any notice. However, the petitioner had sought for prosecution letter on 25.06.2015. The Director of Vigilence and Anti Corruption had issued a letter on 25.08.2015 to the Chief Secretary stating that the allegations made in the complaint are vague and does not disclose any specific allegation of corruption. The petitioner now challenges the said order in this writ petition.

3.Learned Special Government Pleader appearing for the respondents 4 to 7 would submit that even as per the impugned order it is clear that the allegations are vague in nature. It is further submitted by referring to the counter affidavit that the petitioner had suppressed the material facts that earlier he filed W.P.No.25964 of 2003, Crl.O.P.No.40338 of 2003 and Crl.O.P.No.3809 of 2005 with regard to the same lines and he had conveniently not disclosed the said facts in the present writ petition. Moreover, in Crl.O.P.No.40338 of 2003, this court had directed the petitioner to give a police complaint and if the same had not been entertained, also directed to file private complaint and the petitioner without doing so had chosen to file one another writ petition. The above said petitions filed by the petitioner had already been dismissed by this Court. The criminal complaint lodged by the petitioner had been referred as mistake of fact. Hence, sought for dismissal of the present writ petition.

4. It would be suffice to state that this Court had time and again held that the writ petitions filed suppressing the material facts had tobe dismissed in limine and a person who comes to court with unclean hands is not entitled to be heard on merits. There are canteena of judgement of this Court as well as Honourable Supreme Court that suppression of material facts vitiate the case. In the instant case, the petitioner had contended that the Income Tax raid conducted at his premises and at his hospital is only at the instigation the eighth respondent who is having grudge over him. The said Income Tax raid had been conducted on 04.06.2002. Even according to the petitioner, the eighth respondent had vacated the tenancy premises on 14.07.2001 itself. Merely because there had been a dispute which the petitioner had with the eighth respondent during the period of tenancy, he had made vague allegations stating that at the instigation of the eighth respondent, the said Income Tax raid had taken place at his residence and hospital.

5. Since there is a clear finding in the impugned order itself that the complaint is very vague, I do not find any reason to quash the same. Finding no merit in the writ petition, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary
Ministry of Home Affairs,
Union of India, Grih Mantralaya New Delhi.

2. The Secretary
Department of Personnel and Training,
Union of India, New Delhi.

3. The Director
Central Bureau of Investigation,
CGO Complex, Lodhi Road, New Delhi.

4. The Chief Secretary to Government
State of Tamil nadu, Secretariat, Chennai- 600 009.

5. The Secretary to Government
State of Tamil Nadu
Department of Home Affairs,
Fort St. George, Chennai- 600 009.

6 The Director
Directorate of Vigiliance and Anti-Corruption(DVAC) NCB-21 to 28 P.S.
Kumarasamy Raja salai,
Raja Annamalaipuram, Chennai- 600 028.

7 The Commissioner of Income Tax
Nungambakkam High Road, Chennai.

+1cc to Mr.N.Umapathi, Advocate Sr.12486
+2cc to M/S.K.Sridhar Associates, Advocate Sr.11584
+1cc to the Government Pleader Sr.11799

W.P.No. 2989 of 2017

msm[co]
srg 7/3/2017