

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.12736 of 2016 & CrI.O.P.No.4798 of 2017
and
W.M.P.Nos. 11139 & 11140 of 2016

L.Sivaraj

... Petitioner
(both petitions)

Vs.

1. The Commissioner of Police,
Coimbatore District,
Coimbatore.
2. The Superintendent of Police,
Coimbatore District,
Coimbatore.
3. The Inspector of Police,
Periyanaickenpalayam Police Station,
Coimbatore-641 020.
4. R.Vijayakumar

... Respondents
(both petitions)

W.P.No.12736 of 2016

PRAYER : Writ petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondents 1 to 3 to restore the possession of the petitioner's shop namely Fresh N Fresh Supermarket, No.4, Veerapandi Pirivu, Coimbatore District from the clutches of the fourth respondent and consequently direct the respondents 1 to 3 to initiate action the petitioner and similarly indemnify the loss that had been sustained by the petitioner at the instance of the fourth respondent owing to his unlawful locking of the shop.

CrI.O.P.No.4798 of 2017

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C, to direct to reopen the investigation in Crime No.531 of 2016 now pending on the file of the third respondent and secure the accused namely the fourth respondent at the earliest.

For Petitioner : Mr.D.Ashok Kumar
(both petitions)
For R1 to R3 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor
(both petitions)
For R4 : Mr.S.Ramesh
(both petitions)

COMMON ORDER

It is seen from records that the respondent police had registered Cr.No.409 of 2016 insofar as the dispute between the petitioner and his partners are concerned and Cr.No.531 of 2016 insofar as the dispute between the petitioner and his land-lord are concerned.

2. The learned counsel for the petitioner would submit that the petitioner was running a Super Market in the name and style "Fresh N Fresh" and spent huge amount of money towards investment. Initially the petitioner had a dispute with two other persons namely R.Karuppusamy and K.Jogaraj, who claimed to be the partners of business. A suit was filed by them in O.S.No.1899 of 2015 and interim injunction was also obtained by them on 08.09.2015. With the help of the said order, those persons forcibly took over the business from the petitioner. Thereafter, the interim order was vacated and the suit itself came to be dismissed as withdrawn.

3. Learned counsel for the petitioner would submit that the petitioner had given a complaint against the above said K.Jogaraj and the same was registered in Cr.No.409 of 2016. The learned counsel for the petitioner would further submit that the land-lord forcibly took possession of the property and the goods worth about Rs.6,00,000/- and also certain important documents were kept inside the shop and the shop itself was closed. Based on the complaint given by the petitioner, the respondent police registered an FIR in Cr.No.351 of 2016.

4. The learned Additional Public Prosecutor on instructions would submit that both the FIRs were investigated and a closure report has been filed as "mistake of fact". The learned Additional Public Prosecutor would submit that the dispute is purely civil in nature and the parties should have agitated their rights before the competent Court. Learned Additional Public Prosecutor would further submit that if the petitioner is aggrieved by the filing of the closure report, the petitioner has to file a protest petition and agitate the same before the concerned Court. The learned Additional Public Prosecutor would submit that the relief as sought for by the petitioner cannot be granted at this stage.

5. This Court had carefully considered the submissions made on either side and also perused the materials placed on record.

6. It is seen that the petitioner had two disputes at the same time. The first dispute was with the above said two persons, who claimed themselves to be the partners. The second dispute is with regard to the dispute with the fourth respondent, who is the land-lord. The petitioner has not gone before the civil Court in order to establish his right to take possession of the property. The learned Additional Public Prosecutor would submit that the property was handed over by the petitioner to the land-lord on his own and thereafter, the land-lord had leased it to some other tenant and therefore at this length of time, the petitioner cannot claim any right over the property.

7. This Court is of the considered view that the petitioner ought to have worked out his remedy before the competent Civil Court in order to protect his right as a tenant. It was not done by the petitioner. When the respondent police had filed a closure report in this case, the petitioner at least could have filed a protest petition before the concerned Court. This was also not done by the petitioner. The entire dispute is civil in nature, as it is purely land-lord/tenant dispute. This Court at this length of time will not be in a position to give a direction for re-opening the investigation and to transfer the investigation to some other agency.

8. If the petitioner had sustained any loss due to the action of the fourth respondent, he has to work out his remedy for claiming compensation before the concerned Court. The petitioner cannot agitate such a civil right before the respondent police.

9. This Court does not find any merits in petitions filed by the petitioner and accordingly the writ petition and the criminal original petition shall stand dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dss

To

1. The Commissioner of Police,
Coimbatore District,
Coimbatore.
2. The Superintendent of Police,
Coimbatore District,
Coimbatore.
3. The Inspector of Police,
Periyanaickenpalayam Police Station,
Coimbatore-641 020.
4. The Additional Public Prosecutor,
Madras High Court.

+1cc to Mr.D.Ashokkumar, Advocate, S.R.No.85200

W.P.No.12736 of 2016
and
Crl.O.P.No.4798 of 2017

GSP(19/12/2018)



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