



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on
28.11.2018

Delivered on
04.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
W.P.No.20931 of 2018 & CrI.OP No.20020 of 2018
and
WMP No.24573 of 2018

WEB COPY

W.P.No.20931 of 2018

G.Revathi

..Petitioner

.Vs.

1.The District Collector,
Chennai District,
Chennai 600 001.

2.The Commissioner of Police,
Chennai City,
Veperi,
Chennai 600 007.

3.Mr.Muthusamy,
Deputy Commissioner of Police,
St.Thomas Mount,
Parangimalai,
Chennai 600 016.

4.Mr.B.Jayashankar,
Inspector of Police,
S.7, Madipakkam Police Station,
Chennai-600 091.

5.Mr.Perumalsamy

(R-5 Suo motu impleaded as per
Order dt.14.08.2018, in W.P.No.20931/2018)

6.S.Sathurappan

7.G.Amuthavalli

..Respondents

(R 6 & 7 impleaded as per Court order
dt.5.09.2016 in WMP.No.26866/2018)

PRAYER: Writ petition filed under Artcile 226 of the
Constitution of India praying for issuance of a Writ of



Mandamus, to direct the first and second respondents to consider the representations of the petitioner dated 05.08.2018, to held the enquiry under Section 151 Police Standing Order against the third and the fourth respondents by inflicting torture on a women without lawful justification and deal with them in accordance with law.

For Petitioner : M/s.N.Ramamani

For Respondents: Mr.M.Mohamed Riyaz, APP for R1 to R4

Mr.R.Karthikeyan
Mr.R.Bharanidharan for R6 & R 7

Cr1.O.P.No.20020 of 2018

Perumal Samy .Vs. ..Petitioner

1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007.

2.The Inspector of Police,
S.7, Madipakkam Police Station,
Chennai- 600091. ..Respondents

3.Tmt.Revathy
Kanchipuram

(R3 impleaded as per Order dated 21.08.2018 in Cr1.Mp.11013/18)

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C to direct the respondents to grant Police Protection to the petitioner to live peacefully in his Rental house by removing the rowdy elements from the house at Flat 'A', 'Flat 'B' in First Floor and Flat 'C', Flat 'D' in Second Floor, consisting Hall and Five rooms in each Flat situated at Plot No.86 & 808 Part III Main Road, Ram Nagar South, Madipakkam Village, Tambaram Taluk, Kancheepuram District, Chennai-600 091.

For Petitioner : Mr.R.Sankarasuppu

For Respondents: Mr.M.Mohamed Riyaz, APP for R1 to R2

Mr.R.Karthikeyan
Mr.R.Bharanidharan for R3



COMMON ORDER

The above Writ Petition has been filed for a direction to the 1st and 2nd respondent to hold an enquiry against the 3rd and 4th respondent based on the representation made by the petitioner on 05.08.2018. The Criminal Original Petition has been filed by one Perumal Samy seeking for grant of Police Protection.

2.It is seen from records that Sathurappan, Amuthavalli and Revathi are the children of late S.Sathurappan and Rukmani. During the life time of late S.Sathurappan, he had settled certain properties in favour of his son S. Sathurappan. G.Amuthavalli and G.Revathi released their share in the property by virtue of release deed dated 21.02.2008. The said S.Sathurappan in order to give some property to their two son-in-laws, purchased a Plot in the name of the husband of G.Revathi by a registered Sale Deed dated 30.04.2004, and another property in the name of the husband of G.Amuthavalli by a Sale Deed dated 09.03.2005. Thereafter construction was also put up since contribution was made by all the parties, each of them took one portion.

3.It is seen that the above said G.Revathi started raising a dispute and was also demanding a share in the property and was also giving Complaint against S.Sathurappan.

4.The above said G.Revathi filed a suit in O.S.No.5209 of 2016, before the IV Assistant City Civil Court against S.Sathurappan and G.Amuthavalli for the relief of permanent injunction restraining from alienating or encumbering the property and for other reliefs. In the said suit the mother was also made as a plaintiff and she later filed a petition to revoke the vakalat and to transpose her as a defendant. This suit is pending and without disclosing the pendency of this suit, the above said G.Revathi has filed the present Writ Petition.

5.It is also seen from records that the above said G.Revathi has filed C.S.No.183 of 2017, challenging the settlement deed executed by the mother in favour of S.Sathurappan and also the release deed executed by the sisters and had also sought for partition and 1/3rd share in the property.

6.This Writ Petition has been filed by the above said G.Revathi on the ground that her possession was sought to be disturbed in the property which is the subject matter of the above said suit and she was also evicted from the property with the help of Police.



7. It is also seen from records that Perumalsamy has filed O.S.No.261 of 2018, on the file of the District Munsif Court, Alandur, wherein he has shown G.Revathi as the 1st defendant and claimed that he is the tenant in the property, and the said Revathi is the landlord and S.Sathurappan and Amuthavalli are attempting to interfere with the possession of the property, and therefore, he has filed a suit for permanent injunction restraining S.Sathurappan and Amuthavalli not to evict him unless otherwise by due process of law. He has also obtained an interim injunction in I.A.No.733 of 2018. In the light of the said interim injunction, the above Criminal Original Petition has been filed seeking for Police Protection.

8. Very curiously in this case the same counsel was appearing for G.Revathi and Perumalsamy in both the writ petition and the criminal original petition. It is the very same counsel who had appeared for Perumalsamy in the suit in O.S.No.261 of 2018, in which G.Revathi is the 1st defendant. This by itself prima facie shows that the above said G.Revathi, who was not able to obtain any interim orders in the suit filed by her and which is pending has now used the services of Perumalsamy by entering into a lease agreement with him and she is trying to take advantage of the interim injunction obtained by Perumalsamy before the District Munsif Court, Alandur. This was pointed out by the Additional Public Prosecutor and also the counsel appearing for the impleaded parties. Immediately the counsel gave a change of vakalat in the writ petition, and a counsel named N.Ramamani appeared in the writ petition and virtually toed the line of the counsel who appeared in the criminal original petition.

9. This Court would not have taken the pains to explain about the manner in which the proceedings were conducted in this case. However, the conduct of the parties where the plaintiff and the 1st defendant in the suit engaged the same counsel, prima facie gives an impression that there is an abuse of process of Court. It is obvious that the above said G.Revathi, who was not able to obtain any orders in the civil suit that is pending, has attempted to make use of the interim injunction order obtained by the above said Perumalsamy. It must not be forgotten that the injunction was obtained by Perumalsamy by utilizing the lease deed executed by G.Revathi in favour of Perumalsamy. The right of G.Revathi over the property is a subject matter in a pending suit.

10. The above said G.Revathi has filed the writ petition with unclean hands. Instead of agitating her rights in the pending suit, she has made an attempt to project as if her brother Sathurappan has attempted to throw her out of the property with the help of the Police. This Court is of the considered view that the entire conduct of G.Revathi is



questionable and unless and otherwise she establishes her right in the pending suit, she cannot be allowed to take a short cut route by misusing the order obtained by Perumalsamy, to whom she has executed a lease deed. Therefore, this Court is not inclined to grant any relief to the petitioner, who has now attempted to unnecessarily drag on the Police in the case.

11. Insofar as the relief sought for by Perumalsamy in the criminal original petition, if he has obtained any interim order in the suit and there is violation of the said order, he has to workout his remedy only before the concerned Court, and he cannot individually file a petition seeking for Police Protection before this Court. In fact, the Police cannot interfere in a case of this nature. Therefore, the relief as sought for in the Criminal Original Petition cannot be granted by this Court.

In the result, both the Writ Petition, and the Criminal Original Petition shall stand dismissed. There shall be no order as to cost in the writ petition. Consequently, the connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KP

To

1. The District Collector,
Chennai District,
Chennai 600 001.
2. The Commissioner of Police,
Chennai City,
Veperi,
Chennai 600 007.
3. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007.
4. The Inspector of Police,
S.7, Madipakkam Police Station,
Chennai- 600091.



5. The Public Prosecutor,
High Court of Madras,
Madras.

6. The District Munsif,
Alandur.

7. The IV Assistant Judge,
City Civil Court, Chennai.

+1cc to Mr.R.Karthikeyan, Advocate, S.R.No. 83696

+2cc to Mr.N.Ramamani, Advocate, S.R.No. 83093, 83094

+2cc to Mr.R.Sankarasubbu, Advocate, S.R.No. 83097

W.P.No.20931 of 2018 &
Crl.OP No.20020 of 2018

SR(CO)
GN(18/12/2018)