

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2018

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

WP.No.17290 of 2015
and MP.No.1 of 2015

J.S.Jayashree

... Petitioner

Vs.

1. The Commissioner of Police,
Office of The Commissioner of Police,
No:132, Commissioner Office Building,
EVK Sampath Road, Vepery,
Chennai - 600 007.
2. The Deputy Commissioner of Police
St.Thomas Mount -Zone
Office of Deputy Commissioner of Police
Butt Road, St.Thomas Mount,
Chennai - 600 016.
3. Mr.Rajendran,
Assistant Commissioner of Police
Selaiyur Range
Office of the Assistant Commissioner of Police
Tambaram East,
Chennai - 600 073.
4. Mr.Kandavelu
Inspector of Police (Crime)
S-14 Perrkankaranai Police Station
Peerkankaranai, Chennai.
5. Mr.Thanikachalam
Sub-Inspector of Police (Crime)
S-14 Perrkankaranai Police Station
Peerkankaranai, Chennai.
6. Ranganayaki
7. John Southerland Sundaram
8. P.Sriramulu

...Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue of a Writ of declaration

declaring the act of respondent three, four and five in conducting kangaroo Court (Kattapanchayat) in the name of Petition enquiry and false complaints of 6th and 8th respondents by abusing their powers and threatening to dispossess the petitioner and her daughter from the property measuring 9 cents or thereabouts bearing S.No.108 Peerkankaranai Village having Plot No.54C and Door No.11/10, Veeraragavan Street, Srinivasa Nagar, Peerkankaranai, Chennai - 600 063, when civil suits are pending as highly illegal.

For Petitioner : Mr.Adinarayana Rao

For R1 and R2 : Mr.M.Ezhumalai
Government Advocate
For R6 to R8 : Mr.S.Anil Sandeep

O R D E R

This petition has been filed to issue an appropriate order of a writ of declaration declaring the act of the respondents 3 to 5 in conducting kangaroo Court (Kattapanchayat) in the name of Petition enquiry and false complaints of 6th and 8th respondents by abusing their powers and threatening to dispossess the petitioner and her daughter from the premises, Door No.11/10, Veeraragavan Street, Srinivasa Nagar, Peerkankaranai, Chennai - 600 063, when Civil suits are pending.

2. The learned counsel for the petitioner has submitted that the petitioner was married to the 7th respondent on 30.04.1982 and out of their wedlock, two girl children were born to them. He further submitted that the 6th respondent is the mother of the 7th respondent. He further submitted that the 8th respondent is a stranger to the family. He further submitted that the petitioner along with her two daughters residing in Door No.11/10, Veeraragavan Street, Srinivasa Nagar, Peerkankaranai, Chennai - 600 063. He further submitted that since the respondents 6 to 8 tried to dispossess the petitioner and her two daughters from the aforesaid house, she has filed a suit in O.S.No.259 of 2013 on the file of the District Munsif Court at Tambaram for the relief of declaration that the sale deed said to have been executed by the 6th respondent in favour of the 8th respondent dated 29.11.2013 is null and void and also for permanent injunction restraining the respondents 6 to 8 herein from interfering with her peaceful possession and enjoyment of the said property. He further submitted that when the Civil Court has seized the matter, the 6th respondent gave a false complaint before the 5th respondent and based on the said false complaint, the respondents 3 to 5 are frequently calling upon the petitioner and also insisting the petitioner to vacate

the premises and hence he requests to direct the respondents 3 to 5 not to interfere in the civil dispute.

3. The learned Government Advocate appearing for the respondents 1 to 5 has submitted that based on the complaint given by the 6th respondent, the 5th respondent has registered a case in Crime No.2053 of 2015 on 13.08.2015 under Sections 454, 380, 294(b), 323, 341 and 506(I) of IPC and only for investigation purpose, the petitioner was called upon and the respondents 2 to 5 have not directed the petitioner to vacate the premises and therefore, he prayed to dismiss the above petition.

4. The learned counsel appearing for the respondents 6 to 8 has submitted that the 8th respondent has purchased the property from the 6th respondent for valid consideration and possession also given to him. After receipt of the summons in O.S.No.259 of 2013, the 8th respondent herein entered appearance through counsel and also filed written statement along with counter-claim and subsequently, the said suit was dismissed for default and as on date, no suit is pending. He further submitted that the police called upon the petitioner only for investigation purpose and they have not directed the petitioner to vacate the premises and therefore, he prayed to dismiss the petition.

5. The learned counsel for the petitioner by way of reply has submitted that even though the suit was dismissed for default, subsequently, the petitioner has filed a restoration petition and the said petition is still pending.

6. It is an admitted fact that the petitioner herein has filed a suit for declaration and also for permanent injunction in which the 8th respondent has filed a written statement along with counter-claim, subsequently, the said suit was dismissed for default and now restoration petition has been filed and the same is pending.

7. It is also an admitted fact that after filing of this petition, the 6th respondent gave a complaint before the 5th respondent stating that the petitioner herein has committed certain offences and the police has not registered a case and hence the 6th respondent has approached this Court by filing CrI.OP.No.15669 of 2015 and the same was allowed on 26.06.2015 and directed the 5th respondent herein to consider the 6th respondent's complaint and if the said complaint discloses any cognizable offence, he has to register the case. Based on the said order, the 5th respondent herein has registered a case in Crime No.2053 of 2015 under Sections 454, 380, 294(b), 323, 341 and 506(I) of IPC against the petitioner herein and her daughters and the said FIR is pending for investigation.

8. Taking into consideration of the aforesaid facts, the respondents are directed to proceed with the investigation only with regard to the allegations made in the FIR in Crime No.2053 of 2015. The said investigation has to be done in accordance with law. But, they should not direct the petitioner to vacate the premises. With regard to the possession of the property, the parties have already approached the Civil Court by filing suit and counter-claim and therefore in respect of the same, the respondents 3 to 5 should not give any advise or direction to the parties. It is open to them to proceed with the FIR and investigation of the matter in accordance with law.

9. With the aforesaid observation, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

msrm

To

1. The Commissioner of Police,
Office of The Commissioner of Police,
No:132, Commissioner Office Building,
EVK Sampath Road, Vepery,
Chennai - 600 007.
2. The Deputy Commissioner of Police
St.Thomas Mount -Zone
Office of Deputy Commissioner of Police
Butt Road, St.Thomas Mount,
Chennai - 600 016.
3. The Assistant Commissioner of Police
Selaiyur Range
Office of the Assistant Commissioner of Police
Tambaram East,
Chennai - 600 073.
4. The Inspector of Police (Crime)
S-14 Perkkankaranai Police Station
Perkkankaranai, Chennai.
5. The Sub-Inspector of Police (Crime)

S-14 Perrkankaranai Police Station
Peerkankaranai, Chennai.

6. The Public Prosecutor,
High Court Madras.

+1cc to Mr.S.Anilsandeep, Advocate SR.No.61025

+1cc to Government Pleader SR.No.60841

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GMV (23/10/2018)



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