

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

W.P.Nos.22967 and 22968 of 2018

W.P.No.22967 of 2018

P.Kanagavalli

...Petitioner

Vs.

1. State Rep by,
The Commissioner of Police,
Greater Chennai,
EVK.Sampath Road,
Vepery, Chennai-600 07.
2. The Additional Commissioner of Police, (South),
EVK.Sampath Road,
Vepery, Chennai-600 007.
3. The Joint Commissioner of Police (South),
St. Thomas Mount,
Chennai-600 016.
4. The Deputy Commissioner of Police,
T.Nagar Range,
Chennai-600 017.
5. The Deputy Commissioner of Police,
Anna Nagar,
Chennai-600 040.
6. Inspector of Police,
Madhuravoyal Police Station,
Ponamalle High Road,
Chennai-600 095.
7. A.Sasikumar
8. T.Karunakaran

...Respondents

W.P.No.22968 of 2018

P.Kanagavalli

...Petitioner

Vs.

1. State Rep by,
The Commissioner of Police,
Greater Chennai,
EVK.Sampath Road,
Vepery, Chennai-600 07.
2. The Additional Commissioner of Police, (South),
EVK.Sampath Road,
Vepery, Chennai-600 007.
3. The Joint Commissioner of Police (South),
St. Thomas Mount,
Chennai-600 016.
4. The Deputy Commissioner of Police,
T.Nagar Range,
Chennai-600 017.
- 5.The Deputy Commissioner of Police,
Anna Nagar,
Chennai-600 040.
- 6.Inspector of Police,
Madhuravoyal Police Station,
Ponamalle High Road,
Chennai-600 095.
- 7.A.Sasikumar
- 8.T.Karunakaran

...Respondents

PRAYER in W.P.No.22967 of 2018 : Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Mandamus, to direct the first respondent or any other appropriate respondent to register the petitioner's complaint dated 24.07.2018 and 07.08.2018 and to investigate the case on the basis of the petitioner's complaint.

PRAYER in W.P.No.22968 of 2018 : Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Mandamus, to direct the sixth respondent to provide adequate police protection to the petitioner and the demised property situated at No.74/209, Arcot Road, Karambakkam, Porur, Chennai -

600 116 and to conduct the functions of the customers on 06.09.2018, 10.09.2018, 17.09.2018 and to fix name board.

For Petitioner : Mr.R.Shanmuga Sundaram
Senior Counsel for Ms.G.Arulselvi
(in both WPs)

For Respondents : Mrs.M.Prabhavathi
Additional Public Prosecutor
for R1 to R6 (in both WPs)

Mr.R.Ganesh Kumar for R7
(in both WPs)

Mr.M.Sriram for R8
(in WP.No.22968 of 2018)

COMMON ORDER

W.P.No.22967 of 2018 has been filed to issue a Writ of Mandamus or any other appropriate writ, order or direction in the nature of writ, directing the first respondent or any other appropriate respondent to register the case, based on the complaints given by the writ petitioner dated 24.07.2018 and 07.08.2018.

2. W.P.No.22968 of 2018 has been filed to issue a Writ of Mandamus or any other appropriate writ, order of direction in the nature of writ, directing the sixth respondent to provide adequate Police protection to the petitioner and the demised property situated at No.74/209, Arcot Road, Karambakkam, Porur, Chennai-116 and to conduct the functions of the customers on 06.09.2018, 10.09.2018, 17.09.2018 and to fix name board.

3. Heard Mr.R.Shanmuga Sundaram, the learned Senior Counsel who is appearing for the petitioner, Ms.M.Prabhavathi, the learned Additional Public Prosecutor who is appearing for the respondents 1 to 6, Mr.R.Ganesh Kumar learned counsel who is appearing for the seventh respondent and Mr.Sriram learned Counsel who is appearing for the eight respondent.

4. The learned Senior Counsel for the petitioner has submitted that the property which is under dispute belongs to the eighth respondent and originally he has leased out the property to the seventh respondent and after expiry of the lease period, he has taken possession of the said property and subsequently he has leased out the property to the petitioner. He further submitted that after surrendering the possession, the seventh respondent has caused disturbance to the petitioner's possession and hence the petitioner has filed a suit in

O.S.No.374 of 2018 against the seventh respondent before the Sub-Court, Poonamallee and also filed I.A.No.473 of 2018 and obtained interim injunction. He further submitted that the seventh respondent has also filed a suit in O.S.No.299 of 2018 before the District Munsif Court, Poonamallee against the eighth respondent and in that suit, though initially ad-interim injunction was granted, subsequently it was not extended. He further submitted that the learned Sub-Judge by the order dated 21.08.2018 has allowed I.A.No.473 of 2018 in O.S.No.374 of 2018 and ad-interim injunction already granted made absolute till the disposal of the suit.

5. The learned senior counsel further submitted that the petitioner has filed three petitions in Criminal Original Petition Nos.19151, 19152 and 19153 of 2018 seeking directions to register a complaint dated 23.07.2018, seeking police protection and also to transfer the investigation to some other agencies respectively. He further submitted that this Court by the common order dated 01.08.2018 has disposed of those petitions, by observing that since both parties have got interim injunctions, this Court cannot interfere in the disputed questions. He further submitted that after disposal of the aforesaid criminal original petitions, the learned Sub-Judge has allowed the application in I.A.No.473 of 2018 by the order dated 21.08.2018 and ad-interim injunction already granted made absolute. He further submitted that the learned District Munsif has not extended the interim injunction and hence he requests to direct the sixth respondent to provide police protection to enforce the Civil Court's order. He further requests to direct the first respondent or any other appropriate respondent to register the case, based on the complaints given by the petitioner dated 24.07.2018 and 07.08.2018.

6. The learned counsel for the eighth respondent has supported the arguments advanced by the learned Senior Counsel for the petitioner. Further, he submitted that as per the Guidelines issued by the Government that when police protection is sought for implementation of a civil court order, it should be given readily.

7. The learned Additional Public Prosecutor has submitted that since already this Court has refused to grant any relief to the petitioner, these petitions are not maintainable.

8. The learned counsel for the seventh respondent has submitted that the seventh respondent is in possession of the property under dispute and since the eighth respondent has interfered with the seventh respondent's possession, he has filed a suit in O.S.No.299 of 2018 on the file of the District Munsif, Poonamallee and got interim injunction against the eighth respondent and thereafter, the eighth respondent has

created a document and set up his own Mother (petitioner herein) to file a suit in O.S.No.374 of 2018 on the file of Sub-Court, Poonamallee stating that she is the tenant of the said property. He further submitted that the learned Sub-Judge without considering the objections raised by the seventh respondent has allowed the interim injunction application. As against the same, the seventh respondent has filed C.M.A.No.24 of 2018 on the file of the District Principal Judge, Thiruvallur and also asked interim stay for the order passed by the Sub-Judge, but since eighth respondent has filed a caveat, the Principal District Judge did not grant interim stay. The said C.M.A was directed to be posted on 20th September 2018. He further submitted that already this Court has rejected the petitioner's requests in Crl.O.P.Nos.19151, 19152, and 19153 of 2018 by the order dated 01.08.2018 and that being so, these petitions are not maintainable for the same reliefs.

9. It is seen from the typed set of papers filed by the petitioner herein that she has already filed Crl.O.P.Nos. 19151, 19152 and 19153 of 2018 before this Court under Section 482 Cr.P.C., Crl.O.P.No.19151 of 2018 has been filed to direct the Inspector of Police, Valasaravakkam Police Station, Chennai-89 to register a case based on the complaint given by the petitioner dated 23.07.2018. Crl.O.P.No.19152 of 2018 has been filed to direct the Police officials to provide adequate Police protection to the petitioner and the property situated in No.74/209, Arcot Road, Karambakkam, Porur, Chennai-116 to conduct the functions of the customers on 02.08.2018, 06.08.2018, 08.08.2018, 17.08.2018, 23.08.2018, 24.08.2018, 30.08.2018, 31.08.2018, 02.09.2018, 08.09.2018, 10.09.2018, 12.09.2018, 17.09.2018. Crl.O.P.No.19153 of 2018 has been filed to transfer the investigation of complaint dated 23.07.2018 on the file of the Assistant Commissioner of Police, Valasaravakkam Police Station, Chennai - 89 and entrust the same to any other responsible police officer to investigate the complaint dated 23.07.2018 in a free and fair manner under the supervision of respondents 1 and 2 therein.

10. This Court, after considering the submissions made by both sides, has disposed of those petitions by the common order dated 01.08.2018 with the following observations:

" On a conspectus of the facts obtaining in this case, it is seen that both parties have approached the civil court and have obtained orders of interim injunction in their favour. Therefore, this court, in exercise of powers under Section 482 Cr.P.C., cannot go into disputed questions of fact and cannot give any finding either in favour or Kanagavalli or Sasikumar. Police protection can also be sought for enforcement of the injunction order before the civil court, in the light of the

Division Bench of this Court in Sri La Sri Siva subramanyananda Swamy Vs. Sri La Sri Arunachalaswamy [1993 (1) MLJ 274]. Under such circumstances, all these petitions are closed with liberty to the petitioner to approach the appropriate forum. However, the Deputy Commissioner of Police, T.Nagar District shall ensure to maintain law and order in that area and take action in accordance with law. "

11. A plain reading of the aforesaid order shows that police protection can be sought for enforcement of the injunction order before the Civil Court itself in the light of the Division Bench decision of this Court in Sri la Sri Siva Subramanyananda Swamy /Vs/ Sri La Sri Arunachalaswamy [1993(1) MLJ 274], when this Court has passed a specific order directing the petitioner to sought Police protection for enforcement of the injunction order before the Civil Court itself, the petitioner should not have approached this Court again by filing writ petition. This Court is of the view that the order passed by this Court in the above Criminal Original Petitions under section 482 of Cr.P.C will bind not only the parties but also this Court.

12. It is also to be pointed out that in the earlier Crl.OPs, the petitioner has also sought direction to register the case based on the complaint given by the petitioner dated 23.07.2018. The said petitions were closed by this Court with liberty to the petitioner to approach the appropriate forum. In such a case in respect of the relief for police protection, the petitioner has to approach the civil court. In respect of registration of FIR, the petitioner has to approach the concerned Judicial Magistrate under Section 156 (3) Cr.P.C., Instead of approaching the aforesaid Forums, the petitioner should not have approached this court again for the same reliefs by filing writ petitions. Therefore, these writ petitions are not maintainable and they are liable to be dismissed.

13. The learned senior counsel for the petitioner has submitted that the Crl.OP.No.19153 of 2018 itself was filed to transfer the investigation of complaint dated 23.07.2018 from the file of the third respondent therein (Assistant Commissioner of Police, Valasaravakkam) as he is acting in collusion with the eighth respondent herein and hence he requests to direct the said Assistant Commissioner of Police not to interfere in the above matter. It appears that taking into consideration the submissions made by the learned senior counsel by the petitioner, this court while disposing of the earlier Criminal Original Petitions has directed the Deputy Commissioner of Police, T.Nagar District shall ensure to maintain law and order in that area and to take action in accordance with law.

Therefore, the Assistant Commissioner of Police, Valasaravakkam shall not interfere in the above matter.

14. For the aforesaid reasons, these writ petitions are dismissed. No costs. As per the order passed by this court in Crl.OP.Nos.19151, 19152 and 19153 of 2018 dated 01.08.2018, the Deputy Commissioner of Police, T.Nagar District shall ensure to maintain law and order in that area and take action in accordance with law. The Assistant Commissioner of Police, Valasaravakkam shall not interfere in the above matter.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vv

To

- 1.State Rep by,
The Commissioner of Police,
Greater Chennai,
EVK.Sampath Road,
Vepery, Chennai-600 07.
- 2.The Additional Commissioner of Police, (South),
EVK.Sampath Road,
Vepery, Chennai-600 007.
- 3.The Joint Commissioner of Police (South),
St. Thomas Mount,
Chennai-600 016.
- 4.The Deputy Commissioner of Police,
T.Nagar Range,
Chennai-600 017.
- 5.The Deputy Commissioner of Police,
Anna Nagar,
Chennai-600 040.
- 6.Inspector of Police,
Madhuravoyal Police Station,
Ponamalle High Road,
Chennai-600 095.

7.The Assistant Commissioner of Police,
Valasaravakkam,Chennai.

+1cc to Mr.R.Ganesh Kumar, Advocate, S.R.No.64666.

+4cc to Mr.G.Arulselvi, Advocate, S.R.No.64710 & 64711

W.P.Nos.22967 and 22968 of 2018

PP(CO)

rrs 03/10/2018



WEB COPY