

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.07.2018

CORAM:

THE HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

W.P.No. 11694 of 2009

Nallathambi

... Petitioner

Vs.

1.The Director of Information and  
Public Relation,  
Secretariat Building,  
Chennai -9.

2.The District Collector,  
Kancheepuram District.

3.The Commissioner of Police,  
St.Thomas Mount,  
Chennai.

4.The Inspector of Police,  
Pallikaranai Police Station,  
Velacherry, Chennai.

5.Ashokan

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, directing the first respondent herein to consider the representation dated 29.05.2009 submitted by the petitioner and pass appropriate order within the stipulated period prescribed by this Court.

For Petitioner : Mr.G.Thangavel

For Respondents: Mr.Sricharan Rangarajan  
Additional Government Pleader  
for R1 to R4

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O R D E R

The instant writ petition is for a writ of mandamus directing the Director of Information and Public Relation, Chennai to consider the representation dated 29.05.2009 submitted by the petitioner and pass appropriate orders.

2.The petitioner is the owner of the property at Plot No.220 and 221, Viduthalai Nagar, Sunnambedu, Kolathur Village, Tambaram Taluk, Kancheepuram District. The fifth respondent Mr.Ashokan has purchased the adjacent i.e., Plot No.222, Viduthalai Nagar, Sunnambedu, Kolathur Village, Tambaram Taluk, Kancheepuram District. It is the allegation of the petitioner the fifth respondent who is Public Relation Officer is giving threats to the life and property of the petitioner. The petitioner filed a complaint before the Inspector of Police, Pallikaranai Police Station, Velacherry, Chennai, and an F.I.R was registered on 16.06.2009. It is the allegation of the petitioner that the fifth respondent who is working as a Public Relation Officer in Kancheepuram District is a powerful man and is misusing his power causing undue hardship and suffering to the petitioner. The petitioner gave a representation on 29.04.2009 to the Director of Information and Public Relation, Secretariat Building, Chennai for appropriate action. The representation has not been acted upon and the instant writ petition has been filed for a mandamus directing the Director of Information and Public Relation to consider his representation and pass appropriate order.

3.Heard, Mr.G.Thangavel, learned counsel for the petitioner and Mr.Sricharan Rangarajan, learned Additional Government Pleader for the respondent Nos. 1 to 4.

4.It is the case of the petitioner that the fifth respondent is causing undue hardship and mental sufferings, and he has given a representation to the first respondent on 29.05.2009. The representation submitted by the petitioner reads as under:-

"1.I submit that I am the absolute owner at Plot No.220 & 221, Viduthalai Nagar totaling measuring about 6120 sq. ft. comprised in S.No.390/3, Patta No.748 of No.153, Sunnambedu, Kolathur Village, Tambaram Taluk, Kancheepuram District.

I further submit that the above said Public Relation Officer Mr.Ashokan alleged to have purchased the Plot No.222 intended to cause undue hardship as a adjacent owner and he has been continuously causing threat to the life and property with mala fide intension. Therefore, I also lodged a complaint before the police on 05.01.2009 and the police authority also issued the receipt vide CSR.No.4/CSR/F3PS/2008. Thereafter the above said Mr.Ashokan came farward and made compromise with me on 04.02.2009 but subsequently the above said Ashokan again intended to cause continuous threat to the life and property. Therefore I had to lodge a complaint

before the Commissioner of Police, St.Thomas Mount on 27.05.2009 and further represented to the District Collector on 28.05.2009.

Hence the Hon'ble District Collector directed the Survey Department to carry out the Survey of the land by verifying the records. As such the survey authorities carried out the survey of the land and confirmed that I am the absolute owner of the property of 6120 sq.ft. by verifying the record on 29.05.2009.

It is the pertinent to note that the above said Mr.Ashokan being a Public Relation Officer of Kancheepuram District not only intending to cause undue hardship to the life and property but also intending to influence the officials by misusing his office power as Public Relation Officer working at Kancheepuram District. I submit that it is unfortunate to state that the Public Relation Officer being a Government servant has been causing continuous hardship and nuisance to the adjacent owner in order to have unlawful gain.

Therefore it has become necessary for me to approach your kind authority

1. to ascertain the fact in record to the property right of the above said Mr. Ashokan as on today and
2. to take necessary disciplinary action against the above said Mr. Ashokan as he has been continuously causing undue hardship and suffering to the public by misusing his official power as Public Relation Officer working at Kancheepuram District."

5. The representation is extremely vague. The allegations against the fifth respondent are for actions of the fifth respondent in his personal capacity.

6.It is well established that a writ of mandamus cannot be issued merely because a person is praying for. One must establish the legal right first and then he must seek for a prayer to enforce the said right. If there is failure of duty by the authorities or inaction, one can approach the Court for a mandamus.

(a) The Hon'ble Supreme Court in (1996) 9 SCC 309 (State of U.P. and others vs. Harish Chandra and others) in paragraph 10, the Apex Court held as follows:

"10..... Under the Constitution a mandamus can be issued by the Court when the applicant establishes that he has a legal right to the performance of legal duty by the party against whom the mandamus is sought and the said right was subsisting on the date of the petition...."

(b) Similarly in (2004) 2 SCC 150 (Union of India Vs.S.B.Vohra) the Supreme Court considered the said issue and held that " for issuing a writ of mandamus in favour of a person, the person claiming, must establish his legal right in himself". Then only a writ of mandamus could be issued against a person, who has a legal duty to perform, but has failed and / or neglected to do so."

Since the petitioner has not established any legal right no mandamus can be issued to the first respondent to consider the representation of the petitioner. The writ petition is an abuse of the process of law.

7.The writ petition is dismissed. No costs is being imposed on the petitioner.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gsp

To

1. The Director of Information and Public Relation,  
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VSN-II (CO)  
BM 27/07/2018