

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 25.06.2018
PRONOUNCED ON: 03.07.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

W.P. No.15090 of 2018

D. Vijayalakshmi, Party-in-Person

Petitioner

vs.

State represented by:

- 1 the Commissioner of Police
Coimbatore District
Coimbatore 641 018
 - 2 The Deputy Commissioner of Police
(Law & Order)
O/o the Commissioner of Police
Coimbatore District
Coimbatore 641 018
 - 3 A. Murugasamy
Additional Deputy Commissioner of Police
Prohibition Enforcement Wing
O/o the Commissioner of Police
Coimbatore District
Coimbatore 641 018
- Respondents

Writ Petition filed under Section 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to take necessary action on the petitioner's complaint dated 16.03.2018 and dispose the same in accordance with law.

For petitioner Mrs. D. Vijayalakshmi
Party-in-person

For RR 1 & 2 Mr. D. Raja
Government Advocate

ORDER

This writ petition has been preferred seeking a writ of mandamus directing the first respondent to take necessary action on the petitioner's complaint dated 16.03.2018 and dispose of the same in accordance with law.

2 It is the case of the petitioner that she was illegally evicted from Door No.288-291, M.N.G. Street, Gandhi Park, Coimbatore. by two persons, viz., Nagammal and Raghunathan, in connection with which, she gave complaints to the police and no action was taken. It is her further contention that she filed Crl.O.P. No.3377 of 2018 under Section 482 Cr.P.C. seeking a direction to the respondent police to conduct enquiry on her complaint and that the Deputy Commissioner of Police, the second respondent herein, conducted enquiry and nothing has been done pursuant thereto.

3 Heard Mrs. Vijayalakshmi, party-in-person and Mr. D. Raja, learned Government Advocate appearing for respondents 1 and 2.

4 Mrs. Vijayalakshmi, party-in-person, submitted that she is a member of the AIADMK and that she has been illegally evicted with the connivance of the police.

5 However, on a perusal of the records, it is seen that rent control proceedings were initiated against her and eviction orders were passed in execution proceedings. In fact, thereagainst, the petitioner came to the High Court with C.R.P. No.4218 of 2008 and the initial order of stay that was granted by this Court was also vacated. The Execution Court had appointed an Advocate Commissioner to take possession of the property and only thereafter, it appears that possession was taken. In fact, she approached this Court in W.P.No.20132 of 2015 for a somewhat similar relief by impleading the Registrar General of this Court and certain others as party respondents, which was dismissed by this Court on 02.06.2016, wherein, it was observed as under:

"7. As far as the representation of the petitioner dated 24.03.2015 and 22.04.2015 are concerned, they relate to alleged unauthorised demolition of the property by the advocate commissioner in collusion with the local police. As mentioned above, in the report filed by the advocate commissioner, it was clearly stated that the vacant possession of the building has been handed over to Nagammal and Raghunathan in as is where is condition. While so, the allegation of the petitioner that the advocate commissioner and the local police have colluded together and demolished the property in question is unfounded. In fact, in the counter affidavit filed on behalf of the respondents 1 and 2, reference was made to closure of similar complaints made by the petitioner in the year 2012 and 2014 after obtaining a report from the learned Principal District Judge, Coimbatore. In the complaints sent by the petitioner during the year 2012 and 2014, she has made wild allegations

against the Judicial Officer and the Advocate and eventually those allegations were found to be false and incorrect. These material particulars have been suppressed by the petitioner in this writ petition. While so, in the present writ petition, this Court is not inclined to direct the respondents to conduct an enquiry on the basis of the representations dated 24.03.2015 and 22.04.2015 of the petitioner. If such a direction is issued, it will only compel the respondents to do certain acts which they are not bound to do. In any event, this Court finds that the grievance put forth by the petitioner in the representations dated 24.03.2015 and 22.04.2015 have already been considered by the official respondents and she was also given a reply thereof. While so, once again, at the instance of the petitioner, this Court need not issue any direction to the official respondents."

6 That apart, she had also filed another writ petition which was not numbered by the Registry and the Registry posted it for maintainability in W.P. Sr. No.7802 of 2017. This Court heard the party-in-person and has dismissed the writ petition at the SR stage itself as not maintainable, on 22.06.2017, after observing as under:

"3. Since the Advocate Commissioner has been appointed under the provisions of Order 26 of the Civil Procedure Code, if the petitioner is aggrieved over the report filed by the advocate commissioner, she can only file her objections and seek remedy under Order 26 of the Civil Procedure Code. But, there is no provision under the Civil Procedure Code for initiating action by the police against the advocate commissioner for filing an incorrect report.

4. That apart, when the remedy is available to the petitioner under the Civil Procedure Code as against the report filed by the advocate commissioner, the writ petition filed under Article 226 of Constitution of India for initiating action against the advocate commissioner by the first respondent police is not maintainable."

From the above, it is limpid that it has become a routine habit for this petitioner to file such a petition year after year.

In such perspective of the matter, this writ petition fails and is dismissed as being devoid of merits. Costs made easy.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

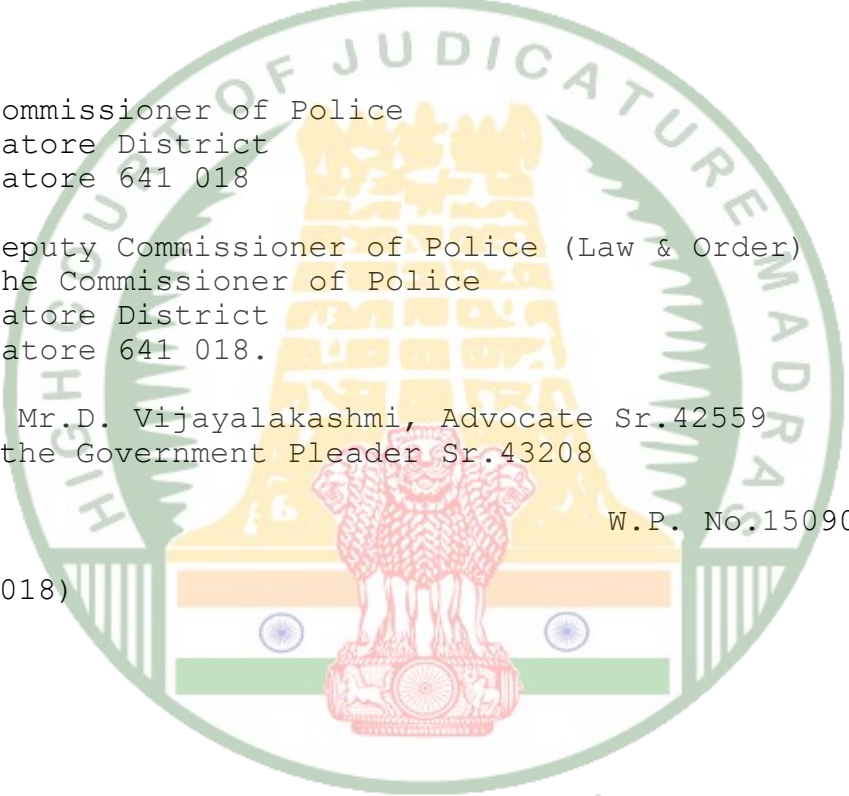
cad
To

- 1 The Commissioner of Police
Coimbatore District
Coimbatore 641 018
- 2 The Deputy Commissioner of Police (Law & Order)
O/o the Commissioner of Police
Coimbatore District
Coimbatore 641 018.

+ 2 ccs to Mr.D. Vijayalakashmi, Advocate Sr.42559
+ 1 cc to the Government Pleader Sr.43208

W.P. No.15090 of 2018

(CS-II)
EU(06/07/2018)



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