

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 12.11.2018	Delivered on 19.11.2018
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CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
Crl.OP No.14689 of 2017

K.Hemalatha

..Petitioner

..Vs..

- 1.The Commissioner of Police,
Greater Chennai, Vepery,
Chennai-600 007.
- 2.The Deputy Commissioner of Police,
Vyasarpadi,
Chennai-600 039.
- 3.The Assistant Commissioner of Police,
P-3 Vyasarpadi Police Station,
Vyasarpadi,
Chennai-600 039.
- 4.Inspector of Police,
P-3 Vyasarpadi Police Station,
Vyasarpadi,
Chennai-600 039.
- 5.A.Rajamathi,
- 6.A.Sankari Rajamathi
- 7.J.K.nathan
- 8.M.J.John
- 9.D.Vasantha Kumar
- 10.Freeda Williams
- 11.Williams,
Father name and aged not known,
District Secretary, Chennai-West,
Samathuva Makkal Kazhagam,
Kollathur Assembly Constituency Head Office,
No.15, Kasthuribai Gandhi Nagar,
Vyasarpadi, Chennai-600 039.

..Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondents 1 to 4 herein to provide police protection for restoration of possession of the ground floor situated at No.15, Kasthuribai

Gandhi Nagar, Vyasarpadi, Chennai-600 039 from 5 to 11 respondents herein and handover the same to her.

For Petitioner : Mr.R.C.Paul Kanagaraj
for S.S.Kumar

For Respondents: Mr.M.Mohamed Riyaz, APP for R1 to 4

ORDER

This Criminal Original Petition has been filed for a direction to the respondent Police to provide police protection and for restoration of possession of the portion of the property which has been illegally occupied by respondents 5 to 11.

2.The petitioner is the owner of the property which consist of ground and two floors. The petitioner is doing packaged drinking water business in the name and style of M/s. Budha Waters. The petitioner has got necessary permission for running the business from the Statutory Authorities. The petitioner is using the ground floor of the property for her business.

3.The petitioner had let out the first floor of the property for rent to the 11th respondent for running a Community Hall. The 11th respondent became a defaulter and stopped paying the rents. The 11th respondent was also not properly utilizing the property and was giving problems to the petitioner. Therefore, the petitioner and her husband approached the 11th respondent and requested him to vacate the property. The 11th respondent vacated the rental portion in the 1st floor. But, however he managed to open the petitioner's ground floor Office premises and had converted it into an Advocates' Office and permitted respondents 5 to 10 to illegally occupy the same.

4.The 11th respondent also gave a Complaint against the husband of the petitioner and the 4th respondent Police registered an FIR in Cr.No.927 of 2017, for an offence under Section 454, 380 IPC and Section 3 of TNPPDL Act. The petitioner also gave a Complaint against the 11th respondent and no action was taken by the 4th respondent, and therefore, a Petition was filed before this Court in Cr1.O.P.No.13881 of 2017 seeking for a direction to register an FIR. As mentioned above, in the meantime the 11th respondent managed to induct respondents 5 to 10, who are advocates, to illegally occupy the property in the ground floor, which was used by the petitioner to run the business.

5.The learned counsel for the petitioner would submit that

the petitioner is not even in a position to go near the property since the advocates are threatening her and the Police are not taking any action, since petitioners 5 to 10 are advocates. Therefore, the present petition has been filed before this Court seeking for appropriate directions. The learned counsel for the petitioner would submit that the petitioner attempted to serve notice on respondents 5 to 11, but however except 2 of the respondents namely; respondents 10 and 11, the others evaded notice and same was returned as unclaimed.

6.This Court also directed the Inspector of Police viz; the third respondent to serve notice on respondents 5 to 11. However, the respondent Police was able to serve only the respondents 5, 6, 10 and 11 and they were not able to serve notice on respondents 7, 8 and 9.

7.When the matter came up for hearing before this Court, it is found that the case has been hanging without any result for more than one year and the respondents 7 to 9 who are advocates have managed to evade notice. Therefore, this Court thought it fit to proceed further and pass final orders in the Criminal Original petition.

8.There is admittedly a landlord and tenant dispute between the petitioner and the 11th respondent. In this case the petitioner had given the first floor of the property on lease to the 11th respondent and it is the case of the petitioner that the 11th respondent had vacated the premises. The 10th respondent has given a Complaint against the husband of the petitioner and others, and the same is pending investigation in Cr.No.927 of 2017. This Court does not want to get into this issue and it is for the parties to agitate the same before the appropriate forum in accordance with law.

9.However, one disturbing factor that has come out in this case is that the 11th respondent has managed to illegally take possession of the ground floor and convert a portion of the property as advocates office in the name of M/s.MKS LAW Associates. The petitioner has given a Complaint in this regard to the 4th respondent, and the 4th respondent has received a complaint on 25.06.2017, and has kept it in the stage of enquiry. The petitioner also approached the Commissioner of Police in this regard by giving a Complaint on 26.06.2017, and the same is also pending without any action. Prima facie it seems that the 11th respondent has ensured that no one comes near the ground floor of the property, by illegally converting two portions in the ground floor as advocates office. The petitioner is struggling to get possession of the property, illegally occupied by the advocates and is moving from pillar to post. However, everyone is hesitating to take action against

the advocates.

10. This Court cannot be a mute spectator in cases of this nature. People should not get an impression that if an advocate occupies any property illegally and puts up an office, no one can question the same and no action can be taken against the advocates. If this trend is allowed, any disgruntled tenant can harass a landlord by handing over possession of the property to an advocate to put up an office and no one will take any action against the advocate thereafter. These trends should be nipped in the bud. Encouraging such instances, will show the advocates in a very poor light in the society. As it is, people hesitate to lease any property to advocates fearing that they will never get back the property. If added to that, cases of the present nature goes uncontrolled and nobody takes action, a time will come when no landlord will induct any advocate as a tenant. The illegal action of a few persons claiming themselves to be an advocate, should not affect the interest of the entire community of the advocates, who are working very hard to establish themselves in the profession.

11. Respondents 5 to 10, who claim themselves to be the advocates, have absolutely no right to occupy the premises. They have virtually barged into the property with the help of the 11th respondent and are happily running an office and the petitioner is not able to do anything about it for the last more than one year. Extraordinary situations require extraordinary solutions. If this Court does not step in and set right the situation, this Court will be failing in its duty, more particularly in a case where it involves a handful of advocates who have taken law into their own hands. The petitioner as a last resort has knocked the doors of the Court for restoration of the property, illegally occupied by the respondents 5 to 10, who are claiming themselves to be advocates.

12. In view of the above, this Court directs the Assistant Commissioner of Police, Vyasarpadi, Chennai, to provide sufficient Police force to the 4th respondent and ensure that the petitioner is put in possession of the property namely; the ground floor situated at No.15, Kasturibai Gandhi Nagar, Vyasarpadi, Chennai 600 049, which is illegally occupied by respondents 5 to 10. This exercise shall be completed by the 3rd respondent viz; the Assistant Commissioner of Police, Vyasarpadi, within a period of one (1) week from the date of receipt of a copy of this order.

13. This order must prove to be a deterrent for any person, who thinks that by allowing an advocate to illegally occupy a property, no one can never go near the advocate and take possession of the property. This Court will step in such cases

and restore possession to the original owner of the property, and this Court will not shut its eyes whenever such instances are brought to its notice.

Criminal Original petition is disposed of with the above directions.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

KP

To

- 1.The Commissioner of Police,
Greater Chennai, Vepery,
Chennai-600 007.
- 2.The Deputy Commissioner of Police,
Vyasarpadi,
Chennai-600 039.
- 3.The Assistant Commissioner of Police,
P-3 Vyasarpadi Police Station,
Vyasarpadi,
Chennai-600 039.
- 4.Inspector of Police,
P-3 Vyasarpadi Police Station,
Vyasarpadi,
Chennai-600 039.
5. The Public Prosecutor,
High Court of Madras, Madras.

Order made in
Crl.OP No.14689 of 2017

CSL/03.12.2018

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