

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2018

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

W.P.No.25335 of 2018

S.Lakshmi

...Petitioner

Vs.

The Tahsildar
Sholinganallur Taluk
1, Rajiv Gandhi Salai
1st Cross Street
Chennai 600 119.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondent to issue the required final order mandated under Section 145(4) and (6) of the Cr.P.C., 1973, with reference to his communication No.R.C.8532/2015 B.1 dated 30.09.2015 sent to the police authorities.

For Petitioner : Mr.R.Natarajan
For Respondent : Mr.C.Raghavan
Government Advocate (Crl.Side)

O R D E R

This petition has been filed to issue a writ of mandamus directing the respondent to issue the required final order mandated under Section 145(4) and (6) of the Cr.P.C., 1973, with reference to his communication No.R.C.8532/2015 B.1 dated 30.09.2015 sent to the police authorities.

2. It is the case of the petitioner that she is the owner of the property measuring 1,325 sq.ft. in Old S.No.383/6, S.Kulathur Village, Sholinganallur Taluk, Kancheepuram and that two persons, by name, Ganesan and Sumanthi have encroached into her property in order to usurp it. In this regard, there were lot of disputes between both parties resulting in the police registering an FIR in Cr.No.1884 of 2015 on 15.06.2015 and the matter was referred to the Revenue authorities for appropriate action. The Tahsildar, Sholinganallur, has conducted a detailed enquiry by calling both the parties and has given a clear finding that the opposite parties have encroached into the property of the petitioner and they have built their house

thereon. Under such circumstances, the petitioner is before this Court with the above prayer.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent-State.

4. Learned counsel for the petitioner submitted that the Tahsildar has initiated action under Section 145(1) Cr.P.C. and as a sequel, he should pass further orders under Section 145 (4) and (6) Cr.P.C.

5. In the opinion of this Court, the provisions of Section 145 Cr.P.C. can be invoked only when there is a dispute which is likely to cause a breach of peace concerning a land or water. Section 145 Cr.P.C. cannot be invoked for settling quarrels and fights between two individual parties. Only when the quarrel or fight is likely to disturb the peace that exists in the locality, can the provisions of Section 145 Cr.P.C. be invoked.

6. In this case, there were quarrels between two parties and FIRs have been registered against the opposite party and they were also arrested and remanded to custody. Since the police referred the matter to the revenue authorities, the Tahsildar conducted local inspection and has thereafter, given a finding, which is, of course, favourable to the petitioner. Based on this finding, a further mandamus to the Tahsildar for passing orders under Section 145(4) and (6) Cr.P.C. cannot be granted, since, essentially, the dispute between the parties was not to such an extent so as to cause a breach of peace in the locality.

Hence, this petition is closed with liberty to the petitioner to work out her remedies in the manner known to law. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

gms

To

The Tahsildar, Sholinganallur Taluk

1, Rajiv Gandhi Salai, 1st Cross Street, Chennai 600 119.

+ 1 cc to Mr. R. Natarajan, Advocate Sr.73716

W.P.No.25335 of 2018

(CS-IX)

EU(15/11/2018)