



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.(MD)No.7000 of 2018
and W.M.P(MD) No.6687 of 2018

Perumal

... Petitioner

Vs.

1.The Superintendent of Police,
Office of the Superintendent of Police,
Theni, Theni District.

2.Manogaran

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the second respondent not to in any manner interfering with petitioner's right, title, possession and interest in the property pending adjudication before the Hon'ble learned District Munsif Aundipatty O.S.No.71 of 2016 and O.S.No.94 of 2016 and direct the first respondent to take action against the second respondent in accordance with law.

For Petitioner : Mr.P.Sivachandran

For R1 : Mr.M.Karuppasamy
Government Advocate

O R D E R

The writ petition has been filed for the issuance of a Writ of Mandamus directing the second respondent not to interfere with the petitioner's right, title, possession and interest in the property pending adjudication of civil suits and direct the first respondent to take action against the second respondent in accordance with law.

2. According to the petitioner, the petitioner and his family members are having right, title and interest over the property and they have been in possession of the property from 26.03.1970. One Mokkalpandi, his wife Annapoorani and others trespassed into the property claiming right and therefore, the petitioner has filed the suit in O.S.No.71 of 2016 on the file of the District Munsif, Aundipatty for permanent injunction against



3. During pendency of the said suit, the said Annapoorani has filed another suit in O.S.No.94 of 2016 on the file of the same Court for declaration and for injunction. That being so, when the petitioner left to attend his son's death ceremony, the said Mookapandi, Annappoorani and Thavasi entered into his property and in his absence, they demolished a portion of the construction by using JCB and therefore, he approached the respondent police and they refused to receive the complaint. The petitioner came to know that one Periyasamy has already lodged a complaint against the petitioner. In the meanwhile, the second respondent registered a case in Crime No.192 of 2018 against the petitioner for the offences under Sections 294(b), 506(i) IPC and threatened the petitioner to withdraw the suit in O.S.No.71 of 2016 pending on the file of the District Munsif, Aundipatty and hand over the possession. Therefore, the petitioner has filed the present writ petition.

4. According to the learned Government Advocate, the second respondent has wrongly stated his designation as ''Inspector of Police'' instead of ''Sub-Inspector of Police'' and he is arrayed as the second respondent in his individual capacity.

5. The second respondent has filed a counter affidavit. In paragraph No.7, it is stated that the petitioner was once again called for enquiry and on enquiry, both parties have stated that they will abide by the final outcome of the suits pending before the District Munsif Court, Aundipatti and they opted for closure of the complaint and based on their statements, the case in Crime No.192 of 2018 was closed and final report is yet to be filed.

6. According to the second respondent, as per the information got under Right to Information Act, the complaint dated 03.03.2018 was received by the Inspector of Police, Aundipatty. The second respondent, by name Manoharan, the Sub Inspector Police has stated in paragraph No.9 of the counter affidavit that he has not known about the complaint dated 03.03.2018. Therefore, there is no question of compelling the petitioner to withdraw his complaint by the second respondent police.

7. On a careful scrutiny of paragraph No. 7 of the affidavit filed by the second respondent, it is made clear that only on the basis of the statements given by the parties the case in Crime No.192 of 2018 was closed.

8. In view of the above stated facts and circumstances of the case, the writ petition is dismissed. No costs. Consequently, connected W.M.P.(MD) No.6687 of 2018 is closed.

Sd/-

Assistant Registrar(C.O.)

/True Copy/



To

1.The Superintendent of Police,
Office of the Superintendent of Police,
Theni, Theni District.

2.The Inspector of Police,
Aundipatty Police Station,Aundipatty,
Theni District.

+1CC to Mr.P.Sivachandran, Advocate, SR.No. 63158
+1CC to the Special Government Pleader SR.No.63020

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AM/JC/SAR 4/03.05.2018/3P/5C