

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2019

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THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.16952 of 2015

and M.P.No.1 of 2015

Hector Rozario

.. Petitioner

Vs.

- 1.The State of Tamil Nadu
Rep. by the Secretary to Government,
Home Department,
Fort St. George,
Chennai-600 009.
- 2.The Director General of Police,
Kamarajar Salai,
Chennai-600 004.
- 3.The Commissioner of Police,
Vepery,
Chennai-600 007.
- 4.The Inspector of Police,
Pallikarnai Police Station,
Pallikarnai,
Chennai.
- 5.Sub-Inspector of Police,
Pallikarnai Police Station,
Pallikarnai,
Chennai.

6.Natarajan
Inspector of Police,
Pallikarnai Police Station,
Pallikarnai,
Chennai.

7.Tmt.Padmavathi

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking Writ of Mandamus, directing the respondents 1 to 3 to register an FIR against the 6th respondent for offences under criminal trespass, criminal intimidation and mischief and to prosecute him in accordance with law.

For Petitioner : Mr.V.Selvaraj

For RR1 to 5 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor.

ORDER

The writ petition has been filed seeking direction to the respondents 1 to 3 to register an FIR against the 6th respondent for offences under criminal trespass, criminal intimidation and mischief and to prosecute him in accordance with law.

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2.The petitioner is the absolute owner of the property situated at Plot No.383, Ram Nagar, South Extension in Survey No.52 and 60 of No.149, Pallikarnai Village, Kancheepuram District measuring 4800 sq.ft. The said

property originally belonged to one Gopinathan, who by a registered sale deed dated 12.05.1967 sold to one Savitri, from whom the petitioner purchased the above said property by registered sale deed dated 04.10.1999. Thereafter, he applied to the Tahsildar, Tambaram for measurement of the property and determined the boundaries and constructed compound walls and also obtained electricity service connections. While so, the 7th respondent herein objected for the construction of compound walls based upon a document. Therefore, she was advised to approach the Civil Court. She filed a suit in O.S.No.305 of 2005 on the file of the District Munsif, Alandur, and the suit was dismissed for default on 19.01.2012. While the suit was pending, the 7th respondent along with few others trespassed into the petitioner's property, hence the petitioner filed a complaint before the 4th respondent and a case was registered as Crime No.1438 of 2008. In the meanwhile, patta was issued by the Tahsildar, Tambaram, in favor of the petitioner against which the 7th respondent filed an appeal, in which the Revenue Divisional Officer by an order dated 27.06.3024 have cancelled the order passed by the Tahsildar. Aggrieved by the same, the petitioner filed W.P.No.23196 of 2014 before this Court and obtained interim stay. While the writ petition is pending, some police officials attempted to intermeddle with the property. Already the petitioner has given a complaint as against one Rjah Das, IPC and others for attempting to grab the property also filed W.P.No.22832 of 2011 as against the said Mr.Rajah Das and others.

Subsequently, the Inspector of police employed persons to fill up gravel in the petitioner's property, when questioned, he informed that he is acting on the orders of the Commissioner of Police. Therefore, the petitioner made a complaint as against the Inspector of Police on 09.06.2016. Since no orders have been passed, the petitioner has filed the present writ petition with the aforesaid prayer.

3. Heard Mr.V.Selvaraj, learned counsel appearing for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor, for the respondents 1 to 5.

4. Considering the facts and circumstances of the case and also that the complaint is pending from the year 2015, without going into the merits of the case, the petitioner is directed to furnish a fresh copy of the complaint before the Deputy Commissioner of Police, Madipakkam, Chennai within two weeks from the date of receipt of copy of this order. On receipt of such complaint, the Deputy Commissioner of Police, Madipakkam, Chennai, is directed to conduct an enquiry with all the parties concern and if any cognizable offence is made out as against the accused persons, the Deputy Commissioner of Police, Madipakkam, Chennai shall direct to register the complaint and proceed further in accordance with law and the entire process should be completed within a

period of three months from the date of receipt of copy of this order.

5. With the above directions, this Writ Petition stands disposed of.

26.04.2019

Index : Yes/No
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To

1. The Secretary to Government,
The State of Tamil Nadu
Home Department,
Fort St. George,
Chennai-600 009.

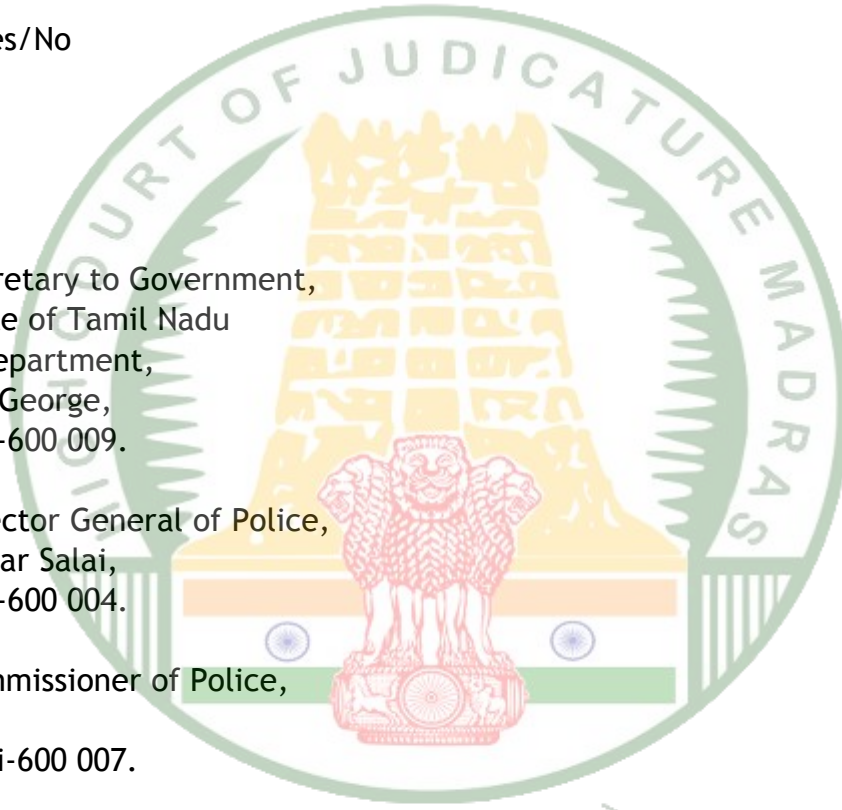
2. The Director General of Police,
Kamarajar Salai,
Chennai-600 004.

3. The Commissioner of Police,
Vepery,
Chennai-600 007.

4. The Inspector of Police,
Pallikarnai Police Station,
Pallikarnai,
Chennai.

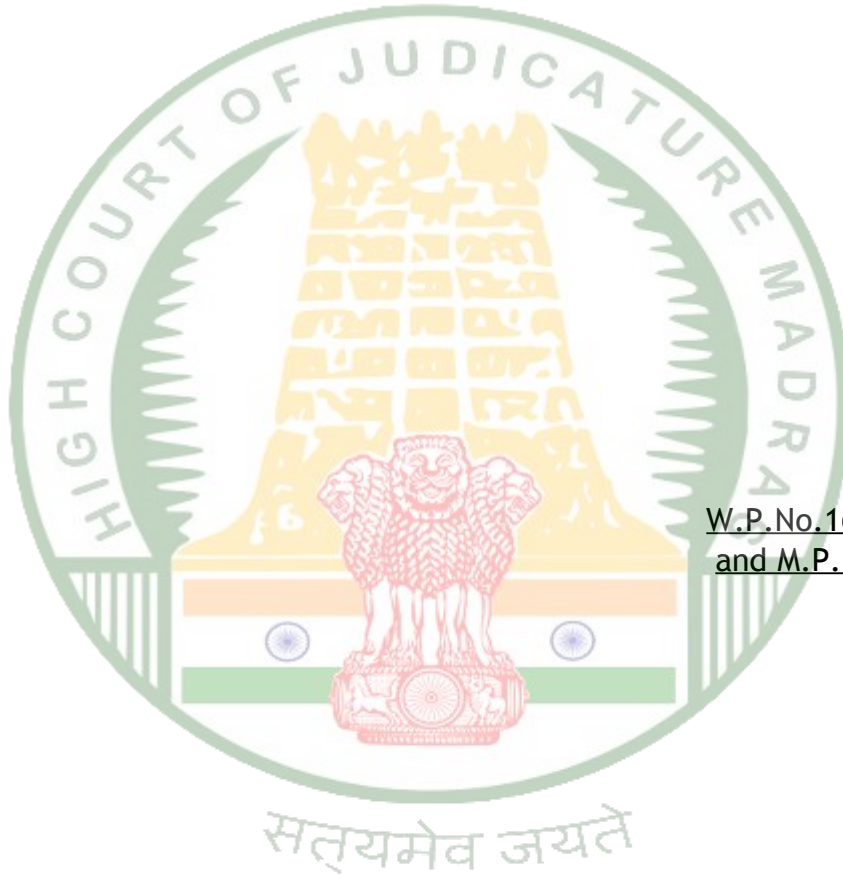
5. The Sub-Inspector of Police,
Pallikarnai Police Station,
Pallikarnai,
Chennai.

6. The Public Prosecutor
High Court, Madras.



G.K.ILANTHIRAIYAN, J.

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