

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P.No.9906 of 2019
and
W.MP.No.10485 & 14414 of 2019

Dr.AnusuyaPetitioner

.Vs.

1. The Superintendent of Police,
Nilgiris District.
2. The Deputy Superintendent of Police,
Ottley Road, Botanical Garden,
Udhagamandalam,
Nilgiris District.
3. The Inspector of Police,
G-2, Pudumandu Police Station,
Nilrigis District.

4.K.Sakuntala

5.S.Mouli SunderRespondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, forbearing the respondents herein from interfering petitioner peaceful possession and enjoyment of the properties situated in T.S.No.B-15/68/1, R.S.No.4537, 4538, 4539, 4544, 4547, 4578, 4528/3 4528/4, 4528, 4529, 4576, 4579, 4580, 4581, 4582, 4540, 4542, 4548, 4589 and 4590, Pudumund, Ootacamund Town and Municipality, Nilgiris District.

For Petitioner : Mr.T.Karunakaran

For R 1 to R 3 : Mr.M.Mohamed Riyaz, APP

For R 4 & R 5 : Mr.S.Ananthanarayanan, Sr.Counsel
for Mr.A.P. Sathya Moorthy

ORDER

This Writ Petition has been filed seeking for the issuance of a Writ of Mandamus forbearing the respondent Police from interfering with the possession and enjoyment of the petitioner in a property situated at Ootacamund Nilgiris District.

2. The grievance of the petitioner is that there is a civil dispute between the parties pending in O.S.No.48 of 2015, on the file of the District Court, Nilgiris at Ootacamund. While so, the rival party is attempting to illegally take possession of the property with the help of Police. Therefore, the present Writ Petition has been filed.

3. Mr.T.Karunakaran, learned counsel appearing on behalf of the petitioner submitted that the Police should not interfere in a case of this nature and the parties will have to agitate their rights only before the Competent Civil Court, where the suit is pending in O.S.No.48 of 2015. The learned counsel further submitted that the rival party has approached this Court twice and had sought for certain directions. The first petition was filed in Crl.O.P.No.4219 of 2019, wherein he had sought for Police protection to survey the land by the Revenue Officials, and this Court directed the Revenue Officials to approach the Police if in case any protection is required. Thereafter, the 5th respondent filed a petition in Crl.O.P.No.5636 of 2019, before this Court seeking for a direction to the respondent Police to remove the lock and key and give police protection. This Court directed the Police to consider the representation made by the 5th respondent.

4. The learned counsel for the petitioner by pointing to these two orders submitted that the 5th respondent is attempting to take forcible possession of the property with the help of Police, and the same should not be permitted since the substantial rights in the property is a subject matter of dispute before a Competent Civil Court.

5. The learned Additional Public Prosecutor appearing on behalf of the respondent Police submitted that the Police is not interested in interfering with the dispute, and the parties can be directed to work out their remedy before the Competent Civil Court.

6. The learned Senior Counsel appearing on behalf of the 4th and 5th respondent submitted that it is true that the dispute between the parties is pending in O.S.No.48 of 2015, on the file of the District Court, Ootacamund, Nilgiris, and 4th and 5th respondents do not intend to take the Police force for the purpose of enjoying the property and they will work out their remedy in the pending suit.

7. This Court has carefully considered the submissions made on either side and also the materials placed on record.

8. This Court does not want to go into the inter-se dispute between the parties and render any finding on the merits of the case since it will have a bearing in the pending suit. The common grievance expressed by both sides is that the Police should not interfere into the dispute, and the parties must work out their rights only in the pending suit.

9. In view of the above, it is made clear that the respondent Police will not interfere in the dispute that is pending between the parties and the parties will have to work out their remedy in the pending suit in O.S.48 of 2015. In view of the specific stand taken on either side, the earlier directions given by this Court in Crl.O.P.No.4219 of 2019 and Crl.O.P.No.5636 of 2019, shall become in-operational and the Police need not act upon the same. The parties shall agitate their rights only in accordance with law in the pending suit in O.S.No.48 of 2015, and shall abide by the orders/judgment passed therein. The District Judge, Nilgiris at Ootacamund, is directed to dispose of the suit in O.S.No.48 of 2015, within a period of four months from the date of receipt of a copy of the order.

Writ Petition is disposed of accordingly. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

KP

To

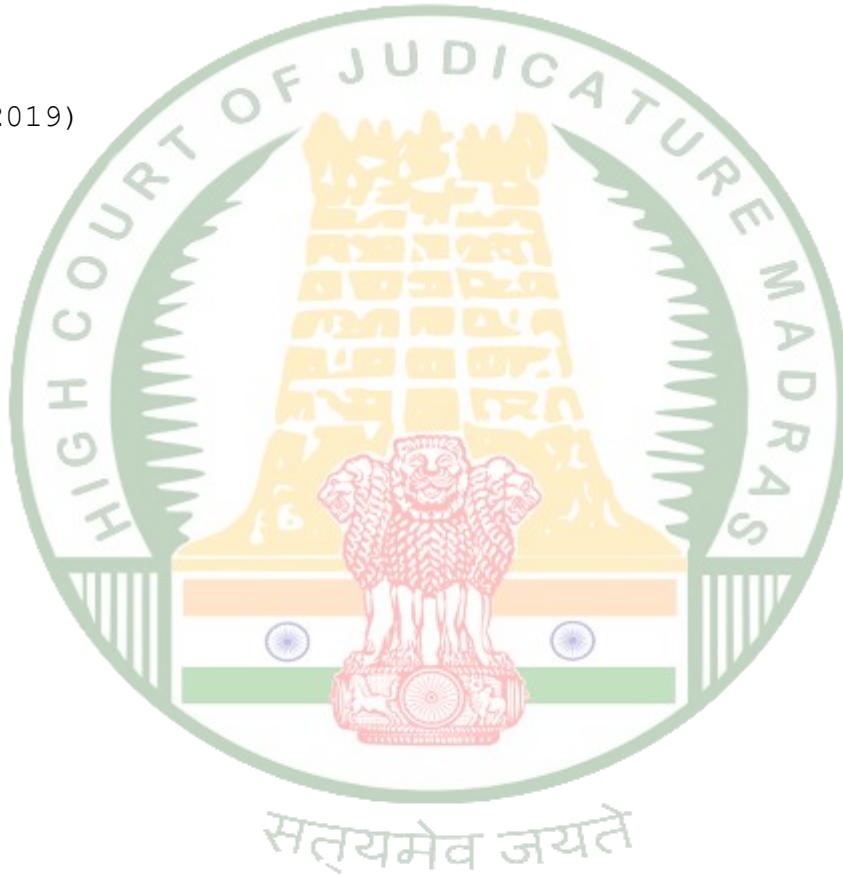
- 1.The Superintendent of Police,
Nilgiris District.
- 2.The Deputy Superintendent of Police,
Ottley Road, Botanical Garden,
Udhagamandalam,
Nilgiris District.
- 3.The Inspector of Police,
G-2, Pudumandu Police Station,
Nilgiris District.

4.The Public Prosecutor,
High Court, Madras.

+3 CCS to Mr.T.Karunakaran, Advocate sr 48877.
+1 CC to Mr.A.P.Sathya Moorthy, Advocate sr 48727.

W.P.No.9906 of 2019

GMR (CO)
SP (20/06/2019)



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