

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.24926 of 2019
and W.M.P.No.24523 of 2019

Ramar

.. Petitioner

Vs.

1. The Deputy Superintendent of Police,
Kallakurichi.

2. The Sub Inspector of Police,
Keezhkuppam Police Station,
Keezhkuppam Village,
Chinnasalem Taluk.

3. Tmt.Vasanthi

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents police not to interfere in the civil dispute in respect of the property of the petitioner in S.No. 46/4 - 2.48 acres situate Thathathiripuram Village, Chinnasalem Taluk, Villupuram District and thereby direct the police not to force the petitioner to vacate the property .

For Petitioner : Mr.N.Suresh

For Respondents : Mr.C.Iyyapparaj
Additional Public Prosecutor for R1 & R2

ORDER

The limited prayer sought for in the present writ petition is for a direction to the respondents not to interfere in the civil dispute. The issue as to whether the dispute is civil in nature, requires to be investigated. Nevertheless, since the petitioner is of the view that by way of interference in such dispute they are put harassment, this Court is of the view that the following directions can be given.

2.An enquiry into a non cognizable offence or a cognizable offence is the unfettered powers of the Investigation

Officers so long as the power to investigate/enquire into these offences are legitimately exercised within the frame work of Chapter XII of the Code of Criminal Procedure. Though the Code of Criminal Procedure empowers the Magistrate to be a guardian in all the stages of the police investigation, there is no power envisaging him to interfere with the actual investigation or the mode of investigation. It is in this background that numerous petitions complaining of harassment are being reported and filed before this Court seeking for directions to refrain the police officials from harassing the persons named in a complaint.

3. This Court, exercising its power under Section 482 of the Criminal Procedure Code normally would not interfere with the investigation conducted by a police officer. Nevertheless, it would also not turn a blind eye to instances of harassment by the police under the guise of investigation is brought to its notice.

4. It is seen that in some cases, the investigation pending before the Police has been stayed by Court orders. It is needless to point out that in cases of this nature, the respondent Police will not be entitled to even proceed with the investigation and therefore, the petitioners may not have an apprehension of harassment in the hands of the Police.

5. In the present case in hand, the petitioner has complained of harassment by the police based on a complaint and seeks for this Court's intervention by way of a direction. The term 'harassment' by itself has a very wide meaning and hence, what could be harassment to the petitioner may not be the same to the police officer.

6. In order to circumvent such situations, the following guidelines are issued:

a) While summoning any persons named in the complaint or any witness to the incident complained of, the police officer shall summon such persons through a written summon under Section 160 Cr.P.C., specifying a particular date and time for appearing before them for such an enquiry/investigation.

b) The minutes of the enquiry shall be recorded in the general diary/station diary/daily diary of the police station.

c) The police officer shall refrain himself or herself from harassing persons called upon for enquiry/investigation.

d) The guidelines stipulated for preliminary enquiry or registration of FIR by the Hon'ble Supreme Court in Lalita Kumari Vs. Government of Uttar Pradesh and others [2014 (2) SCC (1)] shall be strictly adhered to.

7. This writ petition is disposed of, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CJ Conf)

//True copy//

Sub Assistant Registrar

ssr

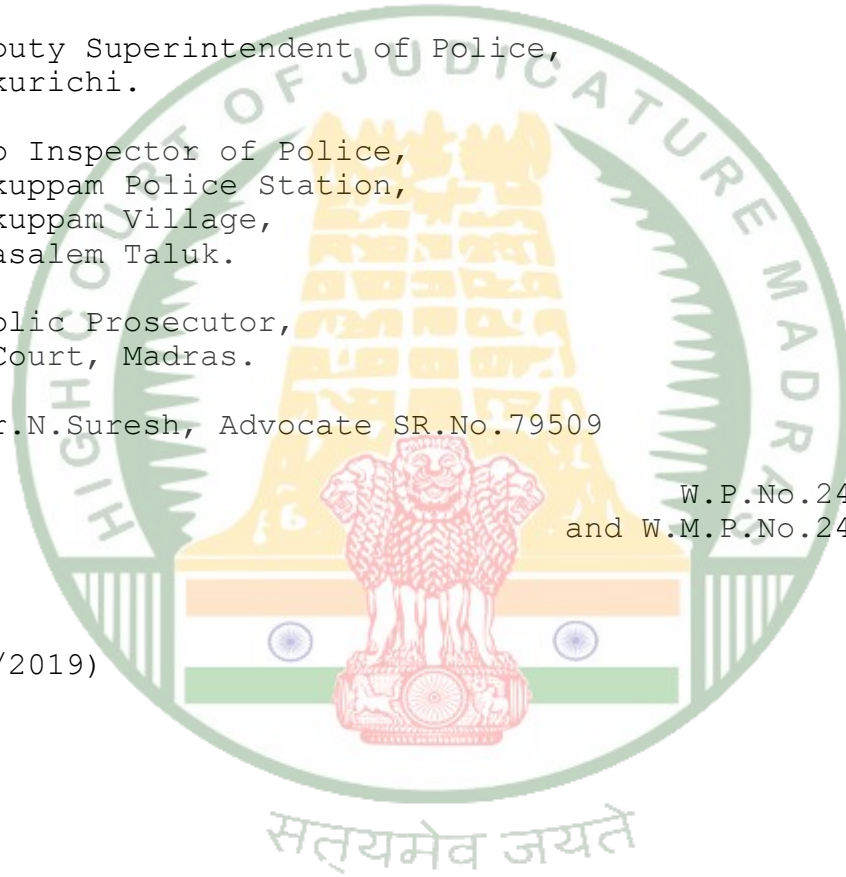
To

1. The Deputy Superintendent of Police,
Kallakurichi.
2. The Sub Inspector of Police,
Keezhkuppam Police Station,
Keezhkuppam Village,
Chinnasalem Taluk.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Suresh, Advocate SR.No.79509

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KK(CO)
GMY(11/10/2019)



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