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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.12.2019

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THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.No.30320 of 2019

and

W.M.P.No.30309 of 2019

Mariammal

... Petitioner

Vs.

1. The Superintendent of Police,
Tiruvallur District,
Chinna Ekkadu, Jaya Nagar
Tiruvallur.

2. The Deputy Superintendent of Police,
E-3, Gummidipoondi Police Station,
Chinna Gummidipoondi,
Tiruvallur District 601 201.

3.The Inspector of Police (Law & Order)
E-3, Gummidipoondi Police Station,
Chinna Gummidipoondi,
Tiruvallur District 601 201.

4. Jayashankar

5.Jayaprakash

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3, not to interfere in the civil matter i.e., the petitioner's possession and enjoyment of the lands comprised in Survey No.46 measuring 86 Ares, Survey No. 83 measuring 15 Ares; Survey No.90/1 measuring 16 Ares; Survey No.91/1C measuring 11 Ares; Survey No.80/3 measuring 8.5 Ares; Survey No.81/1 measuring 31.5 Ares; Survey No.81/2 measuring 14 Ares; which is the subject matter of the Writ in O.S.No.14 of 2016 and O.S.No.205 of 2018.



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For Petitioner : Mr.T.Velumani

For Respondents : Mr.K.Mahendran for R4 & R5

Mr. M. Mohamed Riyaz

Additional Public Prosecutor for R1 to R3

O R D E R

This writ petition has been filed to direct the respondents 1 to 3 not to interfere in the civil matter i.e., that is the petitioner's possession and enjoyment of the lands comprised in Survey No.46 measuring 86 Acres, Survey No.83 measuring 15 Acres; Survey No.90/1 measuring 16 Acres; Survey No.91/1C measuring 11 Acres; Survey No.80/3 measuring 8.5 Acres; Survey No.81/1C measuring 31.5 Acres; Survey No.81/2 measuring 14 Acres; which is the subject matter of the Writ in O.S.No.14 of 2016 and O.S.No.205 of 2018.

2. The learned counsel for the petitioner has submitted that one Jayalakshmi who is the mother of the respondents 4 and 5 had filed a suit in O.S.No.14 of 2014 on the file of the District Munsif, Ponneri, for the relief of permanent injunction restraining the petitioner herein. In that suit, no interim injunction was granted. He further submitted that subsequently, the petitioner herein and two others had filed a suit in O.S.No.210 of 2015 on the file of the same court and also filed petitions seeking interim injunction. The learned District Munsif by the Order dated 20.08.2018 had dismissed the said petition, as against which, the petitioner has filed an appeal in CMA.5 of 2018 on the file of the Sub-Judge, Ponneri and also filed an application in I.A.No.208 of 2018 seeking interim injunction till the disposal of the said CMA and in the said application, the respondents did not appear even after receipt of notice and hence, they were set exparte and consequently, the said petition was allowed on 19.12.2018 and therefore, as on date, injunction is in force in favour of the petitioner herein, He further submitted that without respecting the said order of the court, the respondents 4 and 5 gave a false complaint before the third respondent and based on the said complaint, the respondents 1 to 3 are interfered with the peaceful possession and enjoyment of the petitioner and hence, the petitioner was forced to file the present petition.



3. Per contra, the learned Additional Public Prosecutor who is appearing for the respondents 1 to 3 has submitted that on 17.10.2019, the petitioner has lodged a complaint before the third respondent requesting to take action against the respondents 4 and 5 and their family members. Likewise the father of the respondents 4 and 5 viz., M.Rathinam also lodged a complaint on 17.10.2019 to take action against the petitioner herein. He further submitted that since both the parties have lodged complaints, for enquiry purpose, the petitioner was called but without appearing before the third respondent for enquiry and also without cooperating for enquiry, she hurriedly approached this court and filed this petition. He further submitted that after considering the fact that already the civil suits are pending between the parties, the third respondent has closed both the complaints and therefore, the question of interfering with the petitioner's possession by the respondents 1 to 3 does not arise.

4. Learned counsel for the respondents 4 and 5 has submitted that already the mother of the respondents 4 and 5 had filed a suit in O.S.No 16 of 2014 and the same is still pending. He further submitted that the petitioner also fled O.S.No.210 of 2015 and also filed a petition seeking interim injunction, but the learned District Munsif has dismissed the said petition. He further submitted that the respondents 4 and 5 have not received any notice in the appeal in CMA.No.5 of 2018 said to have been filed by the petitioner and hence the respondents 4 and 5 are not aware about the interim injunction granted by the appellate court. He further submitted that the father of the respondents 4 and 5 had lodged a complaint before the third respondent on 17.10.2019. Likewise, the petitioner also had lodged a complaint before the third respondent on 17.10.2019 and the third respondent considering the fact that already the civil suits are pending, has closed both the complaints and therefore, he requested to dismiss this petition.

5. Admittedly, the petitioner herein has lodged a complaint before the third respondent on 17.10.2019 and on the very next day i.e., on 18.10.2019, she filed the present petition to restrain the respondents 1 to 3 not to interfere in the Civil matter. Since the petitioner herself has lodged a complaint before the third respondent to take action against the opposite party, it would not be proper on the part of the petitioner to file this kind of petition.



6. Taking into consideration of the aforesaid facts and also the fact that already the third respondent has closed both the complaints as the dispute is pending before the civil court, this petition is closed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Asst.Registrar (CO)

/true copy/
Sub Asst. Registrar

gv

To

1. The Superintendent of Police,
Tiruvallur District,
Chinna Ekkadu, Jaya Nagar
Tiruvallur.
2. The Deputy Superintendent of Police,
E-3, Gummidipoondi Police Station,
Chinna Gummidipoondi,
Tiruvallur District 601 201.
- 3.The Inspector of Police (Law & Order)
E-3, Gummidipoondi Police Station,
Chinna Gummidipoondi,
Tiruvallur District 601 201.

+1 cc to Mr.K.Mahendran Advocate sr102078

+1 cc to Mr.T.Velumani Advocate sr101875

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and
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aa21/01/2020