

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.33051 & 33053 of 2019

1.E.NANCY ... Petitioner in both WPs.

 V_S

- 1.The Union of India ,
Rep by its Secretary,
Ministry of Personnel
and Training North Block ,
New Delhi 110 001.
- 2.The Home Secretary,
Government of Tamilnadu,
Secretariat,
Fort St. George, Chennai 9.
- 3.The Director General of Police,
Police Head Quarters, Kamarajar Salai,
Mylapore, Chennai 4.
- 4.The Commissioner of Police,
Police Commissioner Office,
Veppery Chennai 7.
- 5.R.Dhinakaran,
Additional Commissioner of Police (Law and
Order) Chennai North Commissioner of
Police Office, Veppery, Chennai 7.
- 6.Ravi ,
Inspector of Police V5 Thirumangalam
Police Station Chennai 101.

.... Respondents 1 to 6 in both WPs.

Prayer in common: Writ Petitions filed under Article 226 of the Constitution of India praying to issue writs of Mandamus directing the 1st and 2nd respondents to take disciplinary

action against the 5th respondent Mr.R.Dhinakaran, Additional Commissioner of Police Law and Order North Chennai in WP.NO.33051/2019 and directing the 2nd, 3rd and 4th respondents to take disciplinary action against the 6th respondent Mr.Ravi, The Inspector of Police, V5, Thirumangalam Police Station, Chennai in WP.No.33053/2019 respectively, for their misusal of official powers for their involvements in the civil case on the petitioner's petition dated 18.10.2019.

For Petitioner in
both WPs. : Mr.S.Radhakrishnan
For Respondents
in both WPs. :Mrs. S.Meenakumari, SCGSC for R1
:Mr.A.N.Thambidurai, Spl.GP
for R2 to R4

COMMON ORDER

- 1.These Writ Petitions have been filed by the writ petitioner praying for the issuance of a Writ of Mandamus, to direct the 1st and 2nd respondents to take disciplinary action against the 5th respondent Mr.R.Dhinakaran, Additional Commissioner of Police Law and Order North Chennai in WP.NO.33051/2019 and directing the 2nd, 3rd and 4th respondents to take disciplinary action against the 6th respondent Mr.Ravi, The Inspector of Police, V5, Thirumangalam Police Station, Chennai in WP.No.33053/2019 respectively, for their misusal of official powers for their involvements in the civil case on the petitioners petition dated 18.10.2019.
- 2.The case of the petitioner is that the petitioner is claiming to be the owner of the property in Survey No.207/24 part in Koyambedu Village, Aminjikkarai Taluk. According to the petitioner, she is residing with her family in a dwelling house situated at 5C, 14th main road, Anna Nagar, Chennai in Survey no. 207/24 part, which was classified as Government Porampokku land and he has residing over there for the past several years. While the entire alleged porampokku land was purchased by one Mr.Manmohan Singh Jain @ M.S.Jain., thereafter, a civil dispute arose between the petitioner and the said M.S.Jain, for which the petitioner has filed a civil suit in O.S.No.5431/2019 and it is pending and at her instance, Mr.R.Dhinakaran, Addl. Commissioner, Law and Order, North Chennai, 5th respondent herein instructed Mr.Ravi, Inspector of Police, Thirumangalam, Chennai, 6th respondent herein, to demolish the house of the petitioner and pursuant to the same the 6th respondent came to her premises and with the help of JCB machine, demolished the entire house including the compound

wall of the petitioner and a criminal case was registered against the petitioner in Cr.No.295/2019, for the offences under Sections 147, 148, 448 and 506 (i) IPC. Thereafter the petitioner was taken to the police station by the 6th respondent and threatened her with dire consequences. According to the petitioner, the 6th respondent has been acting on the instructions of the 5th respondent who in-turn was influenced by the Chairman of the firm name called M/s.Kiran global chemical Limited. Aggrieved by the alleged illegal acts of the 5th and 6th respondents, the petitioner has come forward with the present writ petitions, seeking direction to the 1st, 2nd, 3rd and 4th respondents to take disciplinary action against the 5th and 6th respondents.

- 3.The learned counsel appearing for the petitioner while reiterating the averments made in the writ petitions would submit that the 5th and 6th respondents have acted in high handed manner and the petitioner was forcibly thrown out from her dwelling house and demolished the same and they also registered a false criminal case against her and the petitioner submitted a petition dated 18.10.2019, to the 1st, 2nd, 3rd and 4th respondents to take disciplinary action against the 5th and 6th respondents, but there was no action. Hence the learned counsel seeks to issue direction to the 1st, 2nd, 3rd and 4th respondents to take disciplinary action against the 5th and 6th respondents, as sought for in the writ petitions.
- 4.The learned Special Government Pleader appearing for the respondents 2 and 4 would submit that already there was a civil dispute between them and a suit in O.S.No.5431/2019 has been pending before the Addl. City Civil Court-XVII, Chennai, filed by the petitioner and it is pending and if at all the petitioner is having any right over the subject property she can very well establish the same. He would also submit that the respondents 5 and 6 have acted in accordance with law and if the petitioner still is aggrieved, she can pursue the matter in the manner known to law.
- 5.Having regard to the facts and circumstance of the case, at the outset, this Court is of the view that these Writ Petitions are misconceived and cannot be entertained since according to the learned Special Government Pleader, the 5th and 6th respondent have acted in accordance with law. Therefore, if at all the petitioner is aggrieved by the alleged illegal acts of the 5th and 6th respondent, she can lodge a complaint or petition before the appropriate authorities/forum by invoking section 156(3) or 200 Cr.P.C, Mere based on ipsi dixit of the petitioner, this Court cannot give positive direction by way of

Mandamus to Respondents 1, 2, 3 and 4 to take disciplinary action against the respondents 5 and 6, since all the allegations made by the petitioner required to be probed into with support of both oral and documentary evidence and that exercise cannot be done in the Writ proceedings.

6. For the above forgoing reasons these writ petitions fail and the same is dismissed. However the petitioner is at liberty to work out her remedy in the manner known to law. No costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

jrs

To

1. The Union of India ,
Rep by its Secretary,
Ministry of Personnel
and Training North Block ,
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2. The Home Secretary,
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3. The Director General of Police,
Police Head Quarters, Kamarajar Salai,
Mylapore, Chennai 4.
4. The Commissioner of Police,
Police Commissioner Office,
Veppery Chennai 7.

+1cc to Mr.S.Radhakrishnan, Advocate SR.98676
+1cc to M/s.S.Meenakumari, Advocate SR.98783
+1cc to the Government Pleader SR.99416

W.P.Nos.33051 & 33053 of 2019

SS(CO)
CB(03/12/2019)