



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.16295 of 2019

Vishnu Kumar

... Petitioner

-Vs-

- 1.The Superintendent of Police,
Kanyakumari District,
Nagercoil.
- 2.Baskaran,
Deputy Superintendent of Police,
Kanyakumari Division,
Kanyakumari.
- 3.The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.
- 4.Gandhi,
Sub Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.
- 5.Rukumani
- 6.Chandran

... Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the 1st respondent to take appropriate action against the respondents 2 to 4 and further direct the respondents 5 and 6 to approach the Civil Court to establish their rights in respect of the petitioner's properties in Sy.Nos.8/2A and 37/8 in Kottaram Village, Potraiadi Post, SRO Kottaram, Kanyakumari District on the basis of the petitioner's representation dated 10.04.2019 within the time stipulated by this Court.

For Petitioners : Mr.P.M.Vishnuvarthanan

For Respondents : Mr.M.Rajarajan, G.A. For RR1 to 4

ORDER

The prayer in this writ petition is for a Writ of Mandamus, directing the 1st respondent to take appropriate action against the respondents 2 to 4 and further direct the respondents 5 and 6 to



approach the Civil Court to establish their rights in respect of the petitioner's properties in Sy.Nos.8/2A and 37/8 in Kottaram Village, Potraiadi Post, SRO Kottaram, Kanyakumari District on the basis of the petitioner's representation dated 10.04.2019 within the time stipulated by this Court.

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2.Heard Mr..P.M.Vishnuvarthanan, learned counsel appearing for the petitioner and Mr.M.Rajjararjan, learned Government Advocate appearing for the respondents 1 to 4. Since no adverse order is going to be passed as against the respondent 5 and 6, notice to them is dispensed with.

3.The grievance of the petitioner is that, the petitioner is the owner of the property in Sy.Nos.8/2A and 37/8 in Kottaram Village, Potraiadi Post, SRO Kottaram, Kanyakumari District and it is the case of the petitioner that, the 6th respondent has purchased a piece of land adjacent to the petitioner's property in the name of the 5th respondent, who is the wife of the 6th respondent and after purchasing the adjacent property, it is the case of the petitioner that, 5th and 6th respondents are trying to encroach upon the petitioner's land in the guise of pathway and in this regard, it is the further case of the petitioner that, the 6th respondent, who is working in the police department, is influencing the respondents 1 to 4, with the result, with the help of the respondents 1 to 4, 5th and 6th respondents are trying to interfere with the peaceful possession and enjoyment of the property of the petitioner and in this regard, in order to redress his grievance, he also approached the competent Civil Court i.e., the Principal District Munsif Court, Nagercoil, where, he laid a suit in O.S.No.45 of 2019 on 06.03.2019, and the suit is pending, where, when the notice about to be served on the 5th and 6th respondent in the interlocutory application has been evading and in that circumstances, taking advantage of that situation as the Civil Court yet to make an interim arrangement as claimed by the petitioner, 5th and 6th respondents, with the help of the respondents 1 to 4 are trying to encroach upon the property of the petitioner. Therefore, the petitioner is before this Court.

4.I have heard the learned Government Advocate appearing for the respondents 1 to 4, who would submit that, the 4th respondent since has been named in his personal capacity, he is present in the Court, on whose instructions, the learned Government Advocate would submit that, there have been complaints by both the parties i.e., between the petitioner and the respondents 5 and 7 and in view of the complaint and the counter complaint, the police authorities wanted to enquire the petitioner and it is the further stand of the 4th respondent that, none of the respondents 1 to 4 have interfered with the civil dispute between the petitioner and the private respondents and in future also, they would not interfere with the civil dispute and if at all, any police complaint is given, only in order to enquire the same, they would visit the property of the petitioner and hear them for the purpose of enquiring the complaint



given by the 5th and 6th respondents against the petitioner as well as the complaint given by the petitioner against the 5th and 6th respondents. Only for the limited purpose of enquiry on the complaints, the police authorities i.e., the respondents 1 to 4 would act, beyond which, they would not make any inroad in the civil dispute between the parties. By making this submissions, the learned Government Advocate would submit that, till the Civil Court decided the issue with regard to the property, which is the issue between the petitioner and the 5th and 6th respondents, the police people would not interfere in that and the same can also be taken on record and accordingly, this writ petition can be disposed of.

5.I have heard the said submissions made by the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents 1 to 4 and also perused the materials placed before this Court.

6.With regard to the grievance of the petitioner that, the 5th and 6th respondents have been trying to interfere with the peaceful possession of the petitioner in the property concerned, the petitioner already approached the Civil Court by filing O.S.No.45 of 2019 on the file of the Principal District Munsif at Nagercoil, where, notice seems to have been ordered to 5th and 6th respondents and in that circumstances, let the issue to be decided by the Civil Court, who alone is competent to decide the issue on the civil dispute between the parties and in this regard, this Court is of the view that the respondents 1 to 4 do not have any role.

7.Mr.Gandhi, the 4th respondent appeared in person before this Court and gave instructions to the learned Government Advocate that the respondents 1 to 4 shall not interfere with the civil dispute between the petitioner and the respondents 5 and 6.

8.Taking into account the said submissions made on behalf of the respondents 1 to 4 by the learned Government Advocate and recording the same, this Court is inclined to dispose of this writ petition, with the consent of both sides, at the admission stage itself, with the following direction:

"The respondents 1 to 4 shall not interfere with the civil dispute between the petitioner and the respondents 5 and 6 and since as the dispute has already been referred to the competent civil Court by way of filing a suit in O.S.No.45 of 2019 by the petitioner on 06.03.2019 on the file of the Principal District Munsif, Nagercoil, till the Civil Court decided the issue in one way or other insofar as the civil dispute between the petitioner and the respondents 5 and 6 is concerned in respect of the property in question, the respondents 1 to 4 shall not interfere with that.

It is made clear that, if at all, any cognizable offence is made either by the petitioner or by the



respondents 5 and 6, the same can be enquired into and can be acted upon in accordance with law by the police authorities, especially, the respondents 3 and 4.

Apart from, the limited purpose, the role of the respondents 1 to 4 is nothing in respect of the civil dispute between the petitioner and the respondents 5 and 6. Therefore, the respondents 1 to 4 shall strictly adhere to the aforesaid directions."

9. With this observation and direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar(CS)

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To

1. The Superintendent of Police,
Kanyakumari District,
Nagercoil.
2. Baskaran,
Deputy Superintendent of Police,
Kanyakumari Division,
Kanyakumari.
3. The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.
4. Gandhi,
Sub Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.

+1CC TO MR.P.M.VISHNUVARTHANAN, Advocate Sr. No.77398
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.77287

Order made in
W.P. (MD) Nos.16295 of 2019
Dated: **23.07.2019**

DB (CO)

TR (26.08.2019) 4P 7C