

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.02.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.20845 of 2012

and

M.P.No.1 of 2012

K.Ramachandran

... Petitioner

Vs

1. The Secretary to the Government
Home Department,
Fort St.George, Chennai-600 009.
2. The Director General of Police,
Mylapur, Chennai - 600 004.
3. The Deputy Inspector General of Police,
Thanjavur Range, Thanjavur District.
4. The Superintendent of Police,
Nagappattinam District.
5. The Deputy Superintendent of Police,
Nagappattinam District.
6. The Inspector of Police
Keelvelur Police Station,
Nagappattinam District.
7. Tamil Selvan
8. V.BNS.Dhanapalan

9. Jaganathan

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India seeking for an issuance of a writ of Mandamus (i) forbearing the respondents 4 to 6 and their men from interfering in connection with the title of the petitioner over the land in Survey Nos.177/1A and 177/1B situated at Oorgudi Village, Anaimangalam Panchayat, Keelvelur Taluk, Nagappattinam District without any authority of law (ii).Direct the 2nd respondent to

initiate appropriate departmental and criminal proceedings against the respondents 4 to 6 within the time frame fixed by this Hon'ble Court. (iii).Direct the 1st respondent to pay just and fair amount to the petitioner as compensation for the loss suffered by the petitioner on account of the abuse of power by the respondents 4 to 6. (iv).To direct the 6th respondent to register a case on the basis of the petitioner's complaint/representation dated 27.07.2012 and conduct fair investigation and proceed as per law within time frame fixed by this Hon'ble Court.

For Petitioner : Ms.R.Gobika
for Mr.S.Rajanikanth

For Respondent : Ms.K.Bhuvaneswari
Nos.1 to 6 Additional Government Pleader

For Respondent : Mr.M.Thiagarajan
Nos.7 & 9 for M/s.Elephant G.Rajendiran

For Respondent : Ms.Tanushree Aravind
No.8 for M/s.Abinav Parthasarathy

ORDER

This writ petition has been filed for a mandamus to forbear the respondents 4 to 6 from interfering with the title of the petitioner's property comprised in Survey Nos.177/1A and 177/1B situated at Oorgudi Village, Anaimangalam Panchayat, Keelvelur Taluk, Nagappattinam District without any authority under law.

2.According to the petitioner, he and one Govindaraj and his brother Balasubramanian entered into an agreement of sale on 15.11.2000 in respect of the aforementioned property for a total sale consideration of Rs.57,750/-. According to the petitioner, at the time of execution of the said sale agreement, he had paid a sum of Rs.37,750/- as advance and the balance sale consideration of Rs.20,000/- will have to be paid within two years thereafter. It is the case of the petitioner that possession of the property was also handed over to him by Govindaraj and his brother Balasubramanian pursuant to the agreement of sale dated 15.11.2000. According to the petitioner, the 7th and 8th respondents trespassed into his land, which is the subject matter of the agreement of sale dated 15.11.2000, and thereafter, he was informed to his shock and surprise that Govindaraj had executed a sale deed for the same property in favour of the 7th respondent. It is the case of the petitioner that immediately, he lodged a complaint on 11.07.2008 with the 6th respondent against the 7th and 8th respondents and the

6th respondent also issued a CSR in Sl.No.197/2008. It is the case of the petitioner that despite the complaint dated 11.07.2008, the 6th respondent has not taken any action against the 7th and 8th respondents in accordance with law. Under such circumstances, this writ petition has been filed seeking for a mandamus to forbear the respondents 4 to 6 from interfering with the possession of the aforementioned property by the petitioner.

3.A counter affidavit has also been filed by the 6th respondent stating that the subject dispute is purely a civil dispute and the petitioner and the 7th respondent have not entered into any agreement of sale. It is also categorically stated in paragraph No.5 of the counter affidavit that subsequent to the complaint lodged by the petitioner against the 7th and 8th respondents, an enquiry was conducted by the 6th respondent and thereafter, it was found that no offence as alleged by the petitioner has been committed by the 7th and 8th respondents. Therefore, the 6th respondent advised the petitioner to seek relief from the Civil Court.

4.Heard Ms.R.Gopika for Mr.S.Rajanikanth, learned counsel appearing for the petitioner, Ms.K.Bhuvaneshwari, learned Additional Government Pleader appearing for the respondents 1 to 6, Mr.M.Thiagarajan for M/s.Elephant G.Rajendiran learned counsel appearing for the respondents 7 & 9 and Ms.Tanushree Aravind for M/s.Abinav Parthasarathy, learned counsel appearing for the 8th respondent.

5.Admittedly, the agreement of sale has not been entered into between the petitioner and the 7th respondent. The main grievance of the petitioner is that the 7th and 8th respondents have trespassed into the property, which is the subject matter of the agreement of sale. However, as seen from the counter affidavit filed by the 6th respondent as well as from the averment made by the petitioner in the affidavit filed in support of the writ petition that a sale deed has already been executed in favour of the 7th respondent for the same property. It is clear that the dispute, which is raised in this writ petition by the petitioner, is purely a civil dispute as he does not have a sale deed in his name and the sale deed for the property now stands in the name of the 7th respondent. There are several disputed questions of fact involved and hence, the only remedy available to the writ petitioner is to approach the civil Court for redressal of his grievance instead of approaching this Court under Article 226 of the Constitution of India, which is not maintainable.

For the foregoing reasons, this Court is of the considered view that there is no merit in this writ petition. Accordingly,

this writ petition is dismissed. However, liberty is granted to the petitioner to approach the civil Court to redress his grievances, if so advised. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sms

To

1. The Secretary to the Government
Home Department, Fort St. George, Chennai-600 009.
2. The Director General of Police,
Mylapur, Chennai - 600 004.
3. The Deputy Inspector General of Police,
Thanjavur Range, Thanjavur District.
4. The Superintendent of Police,
Nagappattinam District.
5. The Deputy Superintendent of Police,
Nagappattinam District.
6. The Inspector of Police
Keelvelur Police Station,
Nagappattinam District.

+1cc to Mr.S.Rajanikanth, Advocate, S.R.No.9970
+1cc to M/s.Revathi M.Kannan, Advocate, S.R.No.9281
+1cc to the Government Pleader, S.R.No.10375

W.P.No.20845 of 2012
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SSV(CO)
CS/13/03/2020

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