

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.29183 of 2018 & W.M.P.No.7494 of 2019
and CRL.O.P.No.30367 of 2018

W.P.No.29183 of 2018
& W.M.P.No.7494 of 2019

1. B.Ramamoorthy
2. J.Jayaprakash ... Petitioners

Vs.

1. The State of Tamilnadu
rep. by its Secretary,
Legislative Assembly Secretariat,
Fort St. George,
Chennai - 600 009.
2. Chief Government Whip
Tamilnadu Legislative Assembly,
Fort St. George,
Chennai - 600 009.
3. The Chief Minister,
Government of Tamilnadu,
Fort St. George, Secretariat,
Chennai - 600 009.
4. K.C.Veeramani
Minister - Commercial Taxes and Registration,
Greeways Road, Raja Annamalaipuram,
Chennai - 600 028.
5. J.Sekar @ Sekar Reddy ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus and thereby directing the first and second respondents to consider the representation of the petitioners dated 27.07.2018 and conduct enquiry by following principles of natural justice and dispose the same in accordance with law, failing which forward the complaint to the third respondent to take appropriate action on the said complaint of the petitioners in accordance with the Prevention of Corruption Act against the fourth respondent.

For Petitioners : Mr.P.C.Harikumar
for
M/s.P.C.Harikumar and Associates
For Respondents
For R1 to R3 : Mr.A.Natarajan
State Public Prosecutor,
Assisted by Mr.M.Mohamed Muzammil
Government Advocate(Crl.side)
For R4 : Mr.C.P.Palanichamy
For R5 : Mr.Vijay Meganathan

Crl.O.P.No.30367 of 2018
J.Jayaprakash

... Petitioner

Vs.

1. The Deputy Inspector General of Police,
Vellore Circle,
Vellore 632 001.
2. The Superintendent of Police,
Vellore District,
Vellore 632 009.
3. The Inspector of Police,
Vellore North Police Station,
Vellore North,
Vellore - 632 004.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the second and third respondents police not to harass the petitioner and his staff for the purpose of eviction.

For Petitioner :Mr.P.C.Harikumar
for

M/s.P.C.Harikumar and Associates

For Respondents :Mr.A.Natarajan

State Public Prosecutor,
Assisted by Mr.M.Mohamed Muzammil
Government Advocate(Crl.side)

COMMON ORDER

This writ petition has been filed to direct the respondents 1 & 2 to consider the petitioners' representation dated 27.07.2018 and conduct enquiry and dispose the same in accordance with law. The second petitioner in the writ petition filed the Criminal original petition to direct the second and third respondents police not to harass him.

2. The learned counsel appearing for the petitioners in both cases submitted that the first petitioner was one of the agreement holder in respect of the property situated at Block No.3, Revenue Ward No.1 of Vada, Vellore, comprised in T.S.No.178/3, ad measuring 90 cents, the land comprised in T.S.No.175/3 ad measuring 4.66 acres, the land comprised in T.S.No.158, ad measuring 44 cents, the land comprised in T.S.No.172 ad measuring 34 cents, the land comprised in T.S.No.173 ad measuring 66 cents in total 6 acres and 90 cents along with the fifth respondent and others as per the sale agreement dated 18.10.2010. The petitioners are in continuous possession and enjoyment of the said properties pursuant to the lease agreement dated 09.08.2010 execution by one Sundararajan and others.

2.1 He further submitted that the fifth respondent who is one of the agreement holders in the sale agreement dated 18.10.2010, sold out the property, in spite the execution of the sale deed in favour of the investors as security for the amount. The purchasers demanded the vacant possession from the petitioners and in this regard, there was a settlement talk between the petitioners and the fifth respondent along with the investors. They also entered into a memorandum of understanding dated 22.02.2017, in which they agreed to settle the amount of Rs.65 crores and the investors agreed to pay a sum of Rs.19 crores by way of cheque/demand draft and the balance amount of Rs.46 crores by way of cash. While being so, the fifth respondent with an ill intention to deceive the petitioners and try to evict the petitioners from the above property by using illegal force with the help of the fourth respondent. The fourth respondent is the Minister for Commercial Taxes and Registration and for doing this illegal act, the fourth respondent received gratification for evicting the petitioners from the property. Further the fourth respondent claimed that he is the owner of the property and fifth respondent is his benami as such they threatened the petitioners to vacate the premises and sought vacant possession of the above mentioned property. Therefore, the petitioners lodged complaint on 02.07.2018 before the Deputy Inspector of Police, Vellore.

2.2. In fact, they already entered into a memorandum of joint compromise dated 22.09.2017, in which they agreed to pay a sum of Rs.46 crores by way of cash at the time of handing over the possession. The petitioners were under the bonafide impression that the fourth and fifth respondents would settle the same. But they try to evict the petitioners by using illegal force. Therefore they committed very serious offence as such the petitioners lodged the complaint before all the authorities concerned on 27.07.2018. Even then, no action has been taken on

the complaint lodged by the petitioners. Therefore, he prayed for direction to direct the respondents 1 & 2 to enquire the complaint dated 27.07.2018 and pass orders.

3. Per contra, the learned State Public Prosecutor appearing for the respondents 1 to 3 in the writ petition submitted that, on the complaint dated 27.07.2018, detailed enquiry was conducted and closed as "All the allegations are civil in nature". Further he submitted that there was a civil suit pending between the parties in O.S.No.603 of 2018, on the file of the Sub Court, Vellore, and the petitioners were advised to sought appropriate remedy before the trial Court. He also submitted that the closure report on the complaint has also been served to the petitioners herein. Therefore, he prayed for dismissal of both the petitions.

4. Heard Mr.P.C.Harikumar, learned counsel appearing for the petitioners, Mr.A.Natarajan, learned State Public Prosecutor appearing for the respondents 1 to 3, Mr.C.P.Palanichamy, learned counsel appearing for the fourth respondent and Mr.Vijay Meganathan, learned counsel appearing for the fifth respondent.

5. On perusal of the closure report, it is seen that the petitioners' complaint was enquired and closed as civil in nature. The petitioner was also directed to approach trial Court, since already civil suit is pending in O.S.No.603 of 2018, on the file of the Sub Court, Vellore. On perusal of the closure report further revealed that the petitioner repeatedly submitted the complaints in respect of the very same issue. On the enquiry, the petitioner was in possession and enjoyment of the property which measuring 7 acres and 10 cents and running partnership firm in the name and style of Sai City Centre. In fact, the petitioners also filed direction petition before this Court in CrI.O.1290 of 2019 for transfer of investigation to CBI and the same was disposed on 21.01.2019. Once again the petitioners filed another petition in CrI.O.P.No.10280 of 2019 for registration of complaint dated 14.03.2019. Again this Court by an order dated 16.04.2019 dismissed the same with direction to follow the guideline issued by the Hon'ble Division Bench of this Court. Therefore, the petitioners without following guideline issued by the Hon'ble Division Bench of this Court now filed this writ petition. It is nothing but clear abuse of process of Court. Further on the complaint, detailed enquiry was conducted and the same was closed and the closure report was also served to the petitioners herein. Therefore, this writ petition devoid of merits and liable to be dismissed.

6. In view of the above discussion, this Writ Petition is dismissed. No order as to costs. Consequently, connected miscellaneous petition is closed.

Crl.O.P.No.30367 of 2018

7. Insofar as the another petition in Crl.O.P.No.30367 of 2018 is concerned, as against the petitioner, the third respondent registered a case in Crime No.500 of 2018 for the offences under Sections 406 & 506(i) of IPC on the complaint lodged by one Bramanandam Dhanada, in which the petitioner is arrayed as second accused. Thereafter, the third respondent completed investigation and filed charge sheet and the same has been taken cognizance in C.C.548 of 2019 and the same is pending for trial before the learned Judicial Magistrate-IV, Vellore. One another case has also been registered as against the petitioner and 20 others in Crime No. 946 of 2018 for the offences punishable under Sections 147, 148, 294(b), 323, 447, 506(ii) of IPC and TNPPDL Act. Therefore the petitioner involved these kind of cases, as such the direction not to harass does not arise and this petition devoid of merits.

8. According, the Criminal Original Petition is also dismissed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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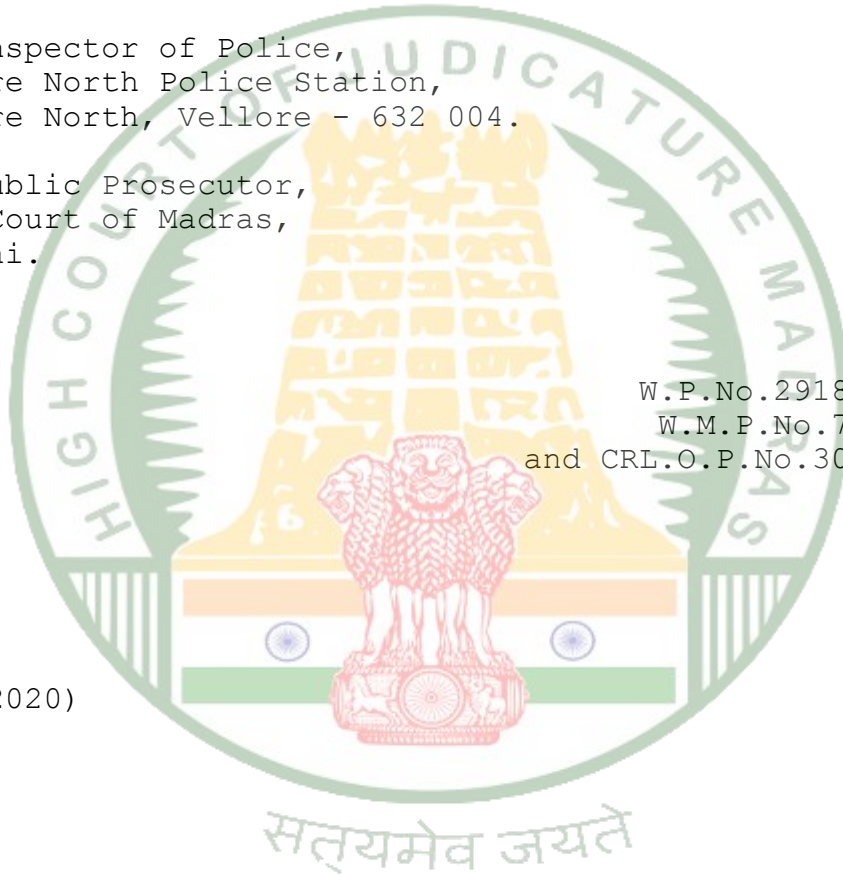
To

1. The Secretary,
State of Tamilnadu
Legislative Assembly Secretariat,
Fort St. George,
Chennai - 600 009.
2. The Chief Government Whip,
Tamilnadu Legislative Assembly,
Fort St. George,
Chennai - 600 009.
3. The Chief Minister,
Government of Tamilnadu,
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4. K.C.Veeramani
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Greeways Road, Raja Annamalaipuram,
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5. The Deputy Inspector General of Police,
Vellore Circle,
Vellore 632 001.
6. The Superintendent of Police,
Vellore District, Vellore 632 009.
7. The Inspector of Police,
Vellore North Police Station,
Vellore North, Vellore - 632 004.
8. The Public Prosecutor,
High Court of Madras,
Chennai.

W.P.No.29183 of 2018 &
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RSV(CO)
GS(18/08/2020)



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