



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 11.12.2020

CORAM:

The Hon'ble Mr.Justice G.K.ILANTHIRAIYAN

W.P. (MD)No.15636 of 2016

and

WMP (MD)No.13853 of 2016

WEB COPY

K.Pandiyar

: Petitioner

Vs.

1.P.Pandian

2.D.Kamalaveni @ Geetha

3.The Commissioner of Police,
Madurai City.

4.The Assistant Commissioner of Police
(Law & Order),
Thilagar Thidal Police Station,
Madurai.

5.The Inspector of Police,
C1, Thideer Nagar Police Station,
Madurai.

6.N.Duraipandian

7.C.Anandraj

: Respondents

*(R6 & R7 are impleaded vide Court order
dated 04.10.2017 in W.M.P(MD)Nos.12839 /16
and 6006 of 2017)*

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent Nos.1 and 2 to restore the possession of the lodge named Ashoka Lodge, bearing D.No.12 located in Perumal Theppakulam Street, Madurai to the petitioner and further direct the respondents 3 to 5 to implement the same and give protection to the petitioner.

For Petitioner

:Mr.S.Anand Chandrasekar
for M/s.Sarvabhauman Associates

For R1

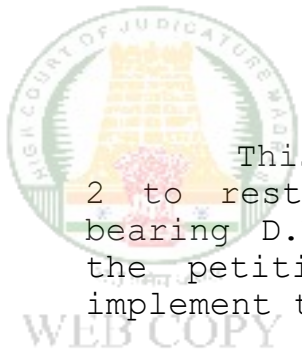
:Mr.Moha Boob Athiff
for M/s.Ajmal Associates

For R2

:Mr.Alagu Balakrishnan

For R3 to R5

:Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.side)



O R D E R

This petition has been filed to direct the respondents 1 and 2 to restore the possession of the lodge namely Ashoka Lodge, bearing D.No.12 located at Perumal Theppakulam Street, Madurai to the petitioner and further direct the respondents 3 to 5 to implement the same and give protection to the petitioner.

2.The learned counsel appearing for the petitioner submitted that the first and second respondents are the owners of the lodge namely Ashoka Lodge, bearing D.No.12 located at Perumal Theppakulam Street, Madurai. The said property was leased out to the petitioner in the year 1993 by the registered lease deed dated 23.12.1993. In respect of the southern portion of the said property, by lease deed dated 03.01.1994, the second respondent executed a registered sale deed in favour of the petitioner herein. According to the terms of the said sale deeds, the monthly rent was enhanced from time to time and the same was duly paid to the respondents 1 and 2. While being so, the first and second respondents intended to evict the petitioner from his lawful possession of the lease agreement. He further submitted that the respondent Nos.1 and 2 herein also filed two suits in O.s.No.230 and 226 of 2005 on the file of the Principal Sub Court, Madurai for eviction. By the common judgment and decree, dated 20.07.2016, both the suits are decreed in favour of the respondents 1 and 2 herein and directed the petitioner to hand over the possession of the registration portion of the property within a period of two months. Thereafter without following the due process of law, illegally the respondents 1 and 2 herein with the help of police officials namely the 5th respondent herein attempted to vacate the petitioner from the said premises. In fact, while pending those suits the said attitude was made by the respondents 1 and 2 herein and as such the petitioner was constrained to file a suit in O.S.No.673 of 2014 on the file of the Principal District Munsif, Madurai for injunction against the respondents 1 and 2 except due process of law in respect of the said property and it is still pending. Though initially, an interim order was granted and subsequently was not extended, while pending suit in O.S.No.673 of 2014 after obtaining decree in O.S.No.226 and 230 of 2005, the respondents 1 and 2 herein forcibly evicted the petitioner from the said property. Therefore, the petitioner lodged a complaint before the 5th respondent herein and the same was registered in Crime No.639 of 2016 for the offences punishable under Sections 147, 148, 291(b), 323, 427, 448 and 506(i) IPC. In fact the first respondent also lodged a counter complaint for the very same occurrence and the same was also registered in Crime No.640 of 2014 for the offences punishable under Sections 147, 294(b), 427, 323, 342 and 506(i) IPC as against the petitioner and others.

3.He further submitted that in fact, the petitioner has also filed another Writ Petition in W.P.(MD)No.8674 of 2016 for direction, directing the respondent police officials including the 5th respondent herein not to interfere with the civil dispute between



the petitioner and the first respondent herein. This Court vide order, dated 28.04.2016 directed the police officials not to interfere with the civil dispute between the petitioner and the first respondent.

4.He would further submit that as against the judgment and decree, dated 20.07.2016 passed in O.S.Nos.230 and 226 of 2005, the petitioner has already preferred an appeal and both appeals are pending on the file of the learned 5th Additional District Judge, Madurai.

5.It is seen that based on the representation of the first and second respondents herein, the Corporation of Madurai cancelled the license issued in favour of the petitioner herein to run the lodge. Therefore, the petitioner was illegally dispossessed from the premises. Admittedly, the petitioner is the lessee of the property owned by the respondents 1 and 2 herein. According to the petitioner, he was dispossessed from the property without following the procedure immediately after obtaining the decree of eviction in O.S.Nos.230 and 226 of 2005. Further, the suit in O.S.673 of 2014 on the file of the Principal District Court, Madurai filed by the petitioner for injunction is still pending. Further in the common order passed in Crl.O.P.(MD)Nos.8957 and 8958 of 2017, this Court has directed the Inspector of Police, C1, Thideer Nagar Police Station, Madurai to complete the investigation and file a final report, within a period of eight weeks and also the directed the Commissioner of Police, Madurai to monitor the said investigation. Therefore, the relief sought for in this petition cannot be granted.

6.Therefore, the Writ Petition is devoid of merits and stands dismissed. However the petitioner is at liberty to approach the civil Court, where the suit in O.S.No.673 of 2014 is pending by filing appropriate application in the manner known to law if so advised. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

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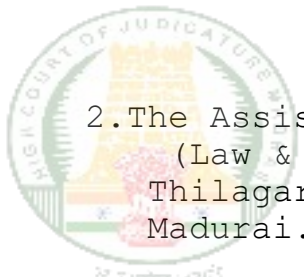
/ /2021

Sub Assistant Registrar(CS)

vsd

To

1.The Commissioner of Police,
Madurai City.



2.The Assistant Commissioner of Police
(Law & Order),
Thilagar Thidal Police Station,
Madurai.

3.The Inspector of Police,
C1, Thideer Nagar Police Station,
Madurai.

+1CC to Mr.S.Anand Chandrasekar, Advocate, SR.No.25447 dated
14/12/2020

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and
WMP (MD) No.13853 of 2016
11.12.2020

MK (CO)
KB (19.01.2021) 4P 5C