



WEB COPY

WP(MD)No.23943 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.03.2020

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD)No.23943 of 2016

and

W.M.P. (MD)No.17275 of 2016

Rajammal

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
At Nagercoil.

2.The Superintendent of Police,
Kanyakumari District,
At Nagercoil.

3.The Inspector of Police,
Colachel Police Station,
Kanyakumari District.

4.Thankaraj

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ order in the nature of Writ of Mandamus, directing the respondents 1 to 3 to protect the life and property of the petitioner in Re-survey No.481/8 of Kallukootam Village, Kalkulam Taluk Kanyakumari District having an extent of 2.75 cents.

For Petitioner : Mr.A.Rajkumar Sen

For R1 to R3 : Mr.S.Chandarasekar
Additional Public Prosecutor

For R4 : Mr.S.C.Herold Singh

ORDER

Heard the learned counsel appearing for the petitioner and the affidavit filed in respect of the writ petition is perused.



2.The petitioner herein claiming title over the property bearing resurvey No.481/8 of Kallukootam Village, Kalkulam Taluk, Kanyakumari District, through a settlement deed executed by her son on 26.12.2014, has given a representation to the respondent police on 23.11.2016 alleging that her neighboring land owner, who is the fourth respondent herein, is tried to forcibly evict her from the property by trespassing into her land and ransacking the agricultural usufructuary. Alleging that she is under life threat and torture at the hands of the neighboring land owner, she had requested the respondent police to give protection to her life and her property in resurvey No.481/8, Kallukootam Village, Kalkulam Taluk, Kanyakumari District.

3.The third respondent police/Inspector of Police, Colachel Police Station, has filed counter, wherein, it is stated that on receiving the complaint from the writ petitioner, the same was taken on file in P3/1540/93/2017, N.Ref.70/SDOC/17, dated 16.01.2017. The writ petitioner and Thankaraj, the neighboring land owner of the writ petitioner, were summoned to attend the enquiry. Both appeared before the respondent police on 19.01.2017 and gave statement expressing their willingness to work out their remedy before the civil court. Since the writ petitioner has already approached this Court for Mandamus in the present writ petition, the respondent police has closed the complaint on 21.01.2017 and the same was reported to the Superintendent of Police/second respondent. Earlier, the fourth respondent has also given a complaint against this writ petitioner and two others alleging that based on the forged document, the writ petitioner is causing trouble in order to grab his property. When both were summoned for enquiry, they appeared and gave statement to the respondent police that they will resolve the dispute through competent civil forum. Hence, the complaint given by the fourth respondent was also closed on 07.08.2016. Pointing out that both the writ petitioner and the fourth respondent are alleging fabrication of document and claiming right over the property. The dispute regarding the title can only be settled by a competent Civil Court and parties have to work out their remedy before the Civil Court.

4.In the light of the judgment of this Court in *Sabesan Chettiar and Others Vs. DRO, Coimbatore* reported in 2011(2) CWC 337, the third respondent would submit that the police



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has no role in a civil dispute and the parties have to work out their remedy before the competent Civil Court and determine the title.

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5.A perusal of the affidavit and the document accompanied with the affidavit, this Court finds that one Gnanaxavier @ Xavier has settled the disputed property in favour of the writ petitioner, who is none other than his own mother, aged about 73. Based on the settlement deed executed on 26.12.2014, the writ petitioner herein claims title and right over the property. Contrarily, it is contested by the fourth respondent that the said settlement deed is the forged document. The title of the settlement deed does not clearly disclose how the said Gnanxavier @ Xavier derived title over the subject property. Therefore, this Court finds that it is a dispute regarding title and the petitioner herein has no proper title over the property and if it is so, she has to establish that before the competent civil Court. Instead of settling the dispute before the Civil Court, this writ petition has been filed by giving a criminal color over the matter.

6.The respondent police has rightly enquired both the parties and had directed them to resolve the dispute before the competent Civil Court. The petitioner having agreed before the respondent police to resolve the dispute before the Civil Court, has filed the present writ petition.

7.In view of the above, this Court finds no merits in this case and hence, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

//True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1.The District Collector,
Kanyakumari District,
At Nagercoil.

<https://hcservices.ecourts.gov.in/hcservices/>



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2.The Superintendent of Police,
Kanyakumari District,
At Nagercoil.

3.The Inspector of Police,
Colachel Police Station,
Kanyakumari District.

+1cc to Mr.S.C.Herold Singh, Advocate Sr.No.12595

AKM/20.05.2020 /4P-5C/

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