



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2020

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD)No.6468 of 2016

and

W,M.P. (MD) .No.5640 of 2016

WEB COPY

S.R.Gunasekaran

... Petitioner

Vs.

1.The Superintendent of Police,
Theni District.

2.The Deputy Superintendent of Police,
Uthamapalayam Division,
Theni District.

3.The Inspector of Police,
Cumbum South Police station,
Madurai City.

4.Eswari

5.Sivakumar

6.Sivakami

7.Selvi

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the second and third respondents herein not to harass the petitioner in a view to vacate the petitioner from the property comprised in Old No.153, New No.49, 49-A, 49-B, 49-C, 49-D, 49-E, 49-F and 49-G at Velapar Koil Street, Cumbum Town, based on the complaint of the respondent Nos.4 to 7.

For Petitioner

: Mr.A.K.Manickam

For R-1 to R-3

: Mr.S.Chandrasekar

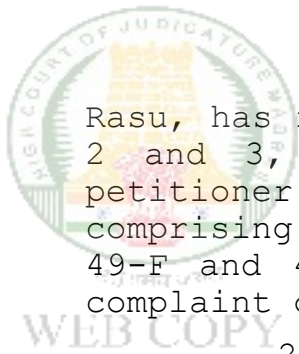
Additional Public Prosecutor

For R-4 to R-7

: Mr.A.Pushpanathan

O R D E R

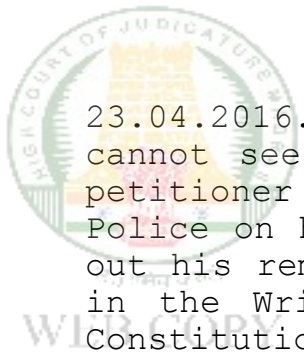
The petitioner herein alleging that the valuable property of the petitioner has been grabbed by the accused persons, who are answered as Respondent Nos.4 to 6, who are the legal heirs of one



Rasu, has filed the present Writ Petition, to direct the respondents 2 and 3, to prevent the other respondents from harassing the petitioner and force the petitioner to vacate the property, comprising in Old No.153, New No.49, 49-A, 49-B, 49-C, 49-D, 49-E, 49-F and 49-G at Velapar Koil Street, Cumbum Town, based on the complaint of the respondents 4 to 7.

2. According to the petitioner, he borrowed a sum of Rs.2,00,000/- from one Rasu and has executed a sale agreement as security on 28.01.2009. Later, the sale agreement was cancelled on 24.07.2009, on payment of the loan amount. Again, he borrowed a loan of Rs.25,00,000/- and a sale agreement was executed on 15.12.2009, on the specific understanding that on repayment of the loan amount with interest, the sale agreement will be cancelled. Accordingly, on 10.12.2012, the said sale agreement was cancelled on the same day and the another sale agreement for a sum of Rs.59,00,000/- was executed and registered, wherein, it has been stated that the petitioner has received a sum of Rs.57,10,000/- as an advance and within three years period, the balance amount of Rs.1,90,000/- will be paid and sale deed will be executed. All these sale agreements were executed with the specific understanding that it will be considered as security for the loan availed and there was no intention of selling the property. This alleged loan figured itself exaggerated by adding exorbitant interest by Rasu. However, the entire money was paid and dues were cleared, while Rasu was alive. But after the death of Rasu, the respondents 4 to 7, came to the house of the petitioner and threatened the petitioner that if the sale deed is not executed in their favour, their sons will harass him and do away with him and make it believe that the petitioner is committed suicide out of ignominy. Fearing the harrassment and torture at the hands of the fourth respondent and her sons, who are arrayed as Accused Nos.5 and 6, the petitioner herein has executed two sale deeds on 07.01.2006, in respect of his property. Soon after, he has given a complaint to the first respondent narrated the facts and alleging that based on the sale deed, the respondents 4 to 7 are trying to evict him and the exorbitant interest for the loan availed has been charged by them. Pending enquiry of this complaint under the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003, the present Writ Petition is filed with the prayer that the petitioner should not be evicted.

3. The grievance of the petitioner and the prayer sought in this Writ Petition does not synchronize if the sale deed executed by him in favour of the respondents 2 to 7 on 07.01.2016, was by force threat. The petitioner ought to have filed an appropriate petition before the appropriate forum, instead, in this Writ Petition, he has sought only the protection from eviction, whereas, the Additional Public Prosecutor appearing for the State would submit that the complaint of the petitioner under the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003, was enquired and it was found to be a "mistake of fact" and the same has been reported before the learned Judicial Magistrate, Uthamapalayam on



23.04.2016. The petitioner herein, through this Writ Petition cannot seek for a protection from eviction and he remedy for the petitioner lies elsewhere. If the final report of the respondents Police on her complaint is not satisfactory the petitioner can work out his remedy in accordance with law. However, the present prayer in the Writ Petition is beyond the scope of Article 226 of the Constitution of India.

4. In view of the facts narrated above, hence, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Tsg

To

1.The Superintendent of Police,
Theni District.

2.The Deputy Superintendent of Police,
Uthamapalayam Division,
Theni District.

3.The Inspector of Police,
Cumbum South Police station,
Madurai City.

+1 CC to Mr.A.PUSHPANATHAN, Advocate (SR-10704[F] dated 10/03/2020

Order made in

W.P. (MD)No.6468 of 2016

Dated: **09.03.2020**

VB(24.03.2020) 3P 5C