



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2020

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD)No.7324 of 2016

V.Abduljameen

... Petitioner

Vs.

1.The Superintendent of Police,
Tirunelveli, Tirunelveli District.

2.The Inspector of Police,
Kadaiyam Police Station,
Tirunelveli District.

... 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 first respondent to take departmental and criminal action against the second respondent based on the petitioner's complaint dated 29.03.2016.

For Petitioner

: Mr.M.Subashbabu

For Respondents

: Mr.S.Chandrasekar

Additional Public Prosecutor

O R D E R

The petitioner herein claiming that he is the absolute owner of the house along with the vacant site, situated in Survey No.15, Gate Street, Muthaliyarpatti. The southern side neighbour one Kathijabeevi, had constructed a step in the common pathway, causing hindrance and disturbance to the petitioner to reach his house. Hence, he has given a complaint to the second respondent Police on 22.03.2016 and another complaint to the second respondent on 29.03.2016 to take action against the said Kathijabeevi. Instead of taking action against the said Kathija Beevi, the second respondent has threatened the petitioner herein that he will arrest him and put him in jail, if he does not settle the dispute with the said Kathija Beevi. Hence, the present Writ Petition is filed seeking Mandamus to direct the first respondent to take departmental and criminal action against the second respondent, based on a complaint given by him on 29.03.2016.

2. The learned Additional Public Prosecutor appearing for the State would submit that based on a complaint given by the petitioner herein viz., V.Abduljameen, the said Kathijabeevi was summoned and enquired and on finding that it is a dispute regarding the land and it is civil in nature, the parties were advised to resort for civil remedy. The said kathijabeevi has also given a written undertaking on 03.04.2016 that she will not create any law and order problem with their neighbors, regarding the land in dispute and she will resort out the issue before the concerned Civil Court for appropriate remedy. Thereafter, on receiving the



complaint, the same was forwarded to the first respondent on 29.03.2016 and CSR was registered. The complainant did not attend the enquiry, whereas, the said Kathijabeevi attended the enquiry and again gave a statement that she is intended to file a suit in the Civil Court regarding the land in dispute. There were complaint and counter complaint regarding the land dispute and after enquiry, the Police has found that it is purely civil in nature, after getting undertaking from the said Kathijabeevi, they have closed the petition.

3. On perusing the records produced by the learned Additional Public Prosecutor, this Court finds that the Police has done their best in accordance with the law and taking note of the fact that it is a civil dispute and they have not interfered in the matter as rightly advised the parties to resort to approach the concerned Civil Court and the parties have also accepted the same and gave a letter to that effect. In such circumstances, there is no question of taking departmental action against them, when there is no element of dereliction of duty or abuse of power. Hence, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Tsg

To

1.The Superintendent of Police,
Tirunelveli, Tirunelveli District.

2.The Inspector of Police,
Kadaiyam Police Station,
Tirunelveli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.SUBASH BABU, Advocate (SR-11181[F]

Order made in

W.P. (MD)No.7324 of 2016

Dated: **09.03.2020**

sma /24/03/2020/2p/5c