



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2020

CORAM:

THE HONOURABLE **DR. JUSTICE G. JAYACHANDRAN**

WP (MD) No.9020 of 2016

and

WMP (MD) No.7191 of 2016

N.Jothilingam

... Petitioner

vs.

1. The Superintendent of Police
Madurai District, Madurai

2. The Inspector of Police
Melur Police Station
Madurai District

3. Ananth
Sub Inspector of Police
Melur Police Station

4. Raja
Grade-I
Police Constable
Special Party
Melavalavu Police Station
Special Team, Madurai District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Mandamus, directing the respondents 2 to 4 not to interfere into the petitioner's right of property situated in Door No.305, 305A and 305B, Alagar Kovil Road, Melur, Madurai District.

For Petitioner : Mr.R.Anand
For Respondents : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

Heard the learned counsel for the writ petitioner.

2. This petition is filed seeking mandamus to direct the respondents 2 to 4, who are police men, not to interfere in the petitioner's right in respect of property situated in Door No.305, 305A and 305B, Alagar Kovil Road, Melur, Madurai District.

3. According to the petitioner, he purchased the property on 25.02.2016 from one M.K.C.Maharaja, who is the lawful owner of the property, whereas the tenant in the premises have attorned the



tenancy in his favour. On the instigation of G.Murugan, G.Kesavan, G.Balakrishnan and Rajeswari, they started giving hindrance to the petitioner's peaceful possession and enjoyment. In this regard, the petitioner has already approached Civil court and obtained interim injunction against the tenants, who intended to cause disturbance to the peaceful possession and enjoyment. The said suit in O.S No. 296 of 2016 on the file of the Sub Court, Melur is still pending. The allegation of the petitioner is that while civil Court has also granted interim injunction in his favour, the respondent police joining in hands with the above named four persons threatened the petitioner that he will be booked in Goondas Act if he does not reconvey the property. Alleging that the third respondent is one of the relative of the said four respondents, the petitioner is before this Court seeking mandamus as mentioned above.

4. The learned Additional Public Prosecutor would submit that regarding the subject property, there was a dispute between the petitioner and Murugan and three others. In this regard, there was complaint and counter complaint which were registered in Crime Nos.376 of 2016 and 48 of 2017. To maintain peace and tranquility, the matter was referred to the Revenue Divisional Officer under Section 145 of Cr.P.C.

5. In the above factual scenario, it appears that there is a civil dispute between the petitioner and Murugan and others. The suit which is already initiated by the petitioner is pending. The police has also not proceeding further, but they have referred the matter to the Executive Magistrate. The enquiry before RDO pending.

6. In the said circumstance, this Court does not find any serious interference by the respondent police in the possession and enjoyment of the petitioner. Therefore it is needless to issue any mandamus in this regard. Recording the pendency of the civil case, the petitioner is advised to workout his remedy before the Civil Court and having already been protected by the interim order if there is any breach of interim order he can resort to appropriate remedy as specified in the Act.

7. With the above direction, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS)

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Sub Assistant Registrar(CS)



To

1. The Superintendent of Police
Madurai District, Madurai

2. The Inspector of Police
Melur Police Station
Madurai District

W.P. (MD) No.9020 of 2016
and
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