

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.2655 of 2021

A.Senthil Kumar

Petitioner

vs.

1. State of Tamil Nadu, rep. by its.

The Inspector of Police (Law and Order),
F-4, Thousand Light Police Station,
Greens Road, Chennai - 600 006.

2. Mr.D.M.Kothandam

3. Mr.K.Ravi

Respondents

[R2 & R3 impleaded vide this Court Order dated 15.02.2021
made in W.M.P.No.3862 of 2021 in W.O.P.No.2655 of 2021]

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondent police to give police protection to brake open the lock put by the land lord K.Ravi and his men with the help of the Respondent police and advocates on the petitioner Go-down (with 40 lakhs paper materials) and Mini-Lorry (with 2 Lakhs paper Materials) consequently not to harass the petitioner and his staffs in civil dispute and not to interfere with petitioner doing his paper business at his godown.

For Petitioner : Mr.B.Ullasavelan

For Respondents: Mr.M.Mohammed Riyaz

Additional Public Prosecutor
for R1
M/s.P.S.Merly Gnanamma

for Mr.K.J.Saravanan for R2

ORDER

This writ petition has been filed for the issue of writ of mandamus directing the respondent police to give police protection to the petitioner to enable the petitioner to break open the lock and to enable the petitioner to continue with the business.

2.It is seen from records that the 3rd respondent is the owner of the subject property and the petitioner is a tenant. Originally the petitioner had entered into lease deed with the 2nd respondent in the year 2012. The 3rd respondent is none other than the son of the 2nd respondent. There seems to be some dispute with regard to the payment of the monthly rents and the 3rd respondent has issued a legal notice to the petitioner dated 09.01.2021 calling upon the petitioner to pay rental arrears of Rs.1,75,324/- and also to vacate the premises. This legal notice was sent through registered post and it was also received by the petitioner.

3.The further case of the petitioner is that after issuing such a notice, the 2nd and 3rd respondents had proceeded to illegally lock down the premises with the help of henchmen. A complaint was also given before the respondent police and no action was taken on the complaint. According to the petitioner, goods worth Rs.40,00,000/- is lying inside the premises and till date the lock has not been opened and respondent police have not taken any action against the 2nd and 3rd respondents. Left with no other option, the present petition has been filed before this Court.

4.Heard Mr.B.Ullasavelan, the learned counsel for the petitioner, Mr.M.Mohammed Riyaz, learned Additional Public Prosecutor appearing on behalf of the 1st respondent and Mr.K.J.Saravanan, learned counsel appearing on behalf of the 2nd respondent.

5.In the considered view of this Court, there is a landlord tenant dispute between the petitioner and the 2nd and 3rd respondents. The status of the petitioner as a tenant in the subject property has not been denied by the 2nd and 3rd respondents and infact the legal notice dated 09.01.2021 sent by the 3rd respondent proceeds on the basis that the petitioner is a tenant in the property. The only dispute is with regard to the arrears of rent that is payable by the petitioner to the 2nd and 3rd respondents. On this ground, the 3rd respondent by virtue of the legal notice has called upon the petitioner to vacate the premises.

6.If in spite of the receipt of the legal notice, the petitioner fails to pay the arrears of rent and vacate the premises, the only option open to the 2nd and 3rd respondents would be to file an eviction petition against the petitioner before the competent Court and proceed further in accordance with law. The landlord cannot be permitted to take law into their own hands and lock up the premises and thereby deprive the petitioner from continuing with the business in the property.

7.The grievance of the petitioner is that the property has been locked up by the landlord illegally and there are goods worth several lakh of rupees lying inside the premises.

When the petitioner is attempting to break open the lock and continue with the possession and enjoyment of the property, the 1st respondent police is interfering with the same and no action is also taken against the 2nd and 3rd respondents.

8.The learned Additional Public Prosecutor on instructions submitted that the complaint given by the petitioner was received by the respondent police and an enquiry is pending in CSR No.10 of 2021. The learned Additional Public Prosecutor submitted that the respondent police will not interfere in a dispute of this nature and it is for the petitioner and respondents 2 and 3 to fight out their case before the competent Court.

9.In view of the specific stand taken by the respondent police, it is made clear that the respondent police will not interfere with the dispute between the petitioner and respondents 2 and 3. The petitioner will be entitled to continue with the possession and enjoyment of the property and if the 2nd and 3rd respondents want to evict the petitioner from the property, they have to necessarily file an eviction petition before the appropriate Court and workout their remedy in accordance with law. Except following this procedure, the respondents 2 and 3 should not indulge in any other illegal act to vacate the petitioner and if it is resorted, the 1st respondent will take action against such illegal eviction. This clarity will enable the parties to workout their remedy before the competent Court in the manner known to law.

10.This writ petition is disposed of accordingly. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssr
To

1. The Inspector of Police (Law and Order),
F-4, Thousand Light Police Station,
Greams Road, Chennai - 600 006.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Ullasavelan, Advocate SR.10638

W.P No.2655 of 2021

MGR(CO)
CB(17/03/2021)

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