

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WP.No.5143 of 2021

S.Mala

...Petitioner

Versus

1. The Commissioner of Police,
Greater Chennai Police,
N.132, Commissioner office Building,
EVK Sampath Salai, Vepery, Chennai-7.
- 2.The Joint Commissioner of Police,
Office of the Joint Commissioner of Police (North Chennai)
No.264, TH Road, Tondiarpet, chennai-600 081.
3. The Deputy Commissioner of Police,
New Washermenpet Police Station,
TH Road, Chennai 600 081.
4. The Assistant Commissioner of Police,
Thiruvottiyur Range, Adjacent to Thiruvottiyur H-8 Police Station,
No.951, TH Road, Kaladipet, Chennai-19.
5. The Inspector of Police,
H-5, New Washermenpet Police Station,
Cross Road, New Washermenpet, Chennai 600 081.
6. V.Sathiyarayan
7. J.Mohanasundaram

...Respondents

This Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the 4th, 5th and 6th respondents, their men, officers, representatives etc., not to interfere in the civil disputes between the petitioner and the 7th respondent and between their respective families and further direct the 1st, 2nd, 3rd respondents to provide necessary protection to the life and property of the petitioner and her family.

For Petitioner : Mr.Arun Anbumani

For Respondents: Mr.C.Raghavan R1 to R5
Government Advocate

O R D E R

This petition has been filed for the issue of a Writ of Mandamus directing respondents 4 to 6 not to interfere with the civil dispute between the petitioner and the 7th respondent and for a further direction to the respondent police to grant police protection to the life and property of the petitioner and his family.

2. The case of the petitioner is that there was a private dispute between the petitioner and her family members against the 7th respondent. The same became a subject matter before this Court and the petitioner had filed petitions before this Court seeking to set aside the judgment and decree passed in Second Appeal on the ground of fraud played before this Court. Those petitions were allowed by this Court by an order dated 16.09.2020 and it will be relevant to extract paragraph No19, in the said order:-

'19. A careful reading of the above paragraphs clearly would show that any judgment or decree obtained by playing fraud on the Court is a nullity and non est in the eye of law and the judgment can be challenged in collateral proceedings. Therefore, I am of the considered opinion that the objection raised by the respondents/appellants that a fresh and independent suit along should be filed, is devoid of any merit, hence, the same is liable to be repelled. Secondly, the further argument advanced by the learned Senior counsel for the respondents that the petitioners were not parties before the Courts below, therefore, they cannot maintain the present petitions without seeking leave of the Court, is also liable to be rejected, in view of the sole reason that they obtained the order by playing fraud. Moreover, the respondents herein at the time of moving memos of compromise had not sought the leave of this court when the second appeals had gone abated one decade ago, hence, they cannot be allowed to be heard to support the impugned judgments and decrees obtained by playing fraud with the Court. Therefore,

the memos of compromise dated 09.07.2021 filed deceptively shall stand cancelled.''

3. By virtue of the above order, the earlier petitions filed in the second appeal by the 7th respondent were dismissed.

4. The grievance of the petitioner is that inspite of the above order, the 7th respondent was able to influence the police and the revenue officials and also take the help of a group of advocates and thereby, there is a continuous threat to the possession and enjoyment of the property.

5. The petitioner, left with no other option, has filed the present writ petition seeking for a direction to the police and the revenue officials not to interfere with the civil dispute and also for a further direction to grant police protection.

6. Heard Mr.Arun Anbumai, learned counsel for the petitioner and Mr.C.Raghavan, learned Government Advocate appearing on behalf of the respondents 1 to 6.

7. In the considered view of this Court, neither the police nor the revenue officials can have any say with regard to the dispute between the petitioner and the 7th respondent. Therefore, they cannot interfere in the dispute. The main grievance of the petitioner seems to be the attitude of the 7th respondent in engaging the services of some advocates who are said to be causing nuisance and interference to the possession and enjoyment of the petitioner. It is under these circumstances, the petitioner is seeking for police protection.

8. In the considered view of this Court, the 7th respondent, if at all has any right in this property, can only work out his right before the competent court. The police or the revenue official or any advocate will have no role to play and they cannot interfere in the dispute. If the 7th respondent engages the service of some advocates to interfere with the possession and enjoyment of the property of the petitioner and cause threat to the petitioner, the 5th respondent cannot be a mute spectator and he is expected to take appropriate action in accordance with law.

9. In the result, this Writ Petition is disposed of with a direction to the respondents 4 to 6 not to interfere with the civil dispute between the parties. There shall be a further direction to the 5th respondent to instruct the 7th respondent not to cause any threat or bring about a law and order problem by engaging advocates and to work out his remedy before the competent Court. If inspite of such instructions, the 7th respondent resorts to any threat, appropriate action shall take

against him in accordance with law. If necessary, the 5th respondent shall also provide police protection to ensure that the possession and enjoyment of the property of the petitioner is not put to threat. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Police,
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N.132, Commissioner office Building,
EVK Sampath Salai, Chennai-7.
2. The Joint Commissioner of Police,
No.264, TH Road, Tondiarpet, Chennai.
3. The Deputy Commissioner of Police,
New Washermenpet Police Station,
TH Road, Chennai.
4. The Assistant Commissioner of Police,
Thiruvottiyur Range, Adjacent to Thiruvottiyur H-8 Police Station,
No.951, TH Road, Kaladipet, Chennai-19.
5. The Inspector of Police,
H-5, New Washermenpet Police Station,
Cross Road, New Washermenpet, Chennai.
6. The Public Prosecutor
High Court of Madras
Chennai - 600 104.

SKY(CO)
RMP(25/03/2021)

WP.No.5143 of 2021