

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.9833 of 2021 and
W.M.P.No.10463 of 2021

R.T.Suresh

... Petitioner

Versus

- 1.The Director General of Police,
O/o The DGP,
Radhakrishnan Salai,
Santhome, Chennai.
- 2.The Commissioner of Police,
O/o The Commissioner of Police,
Salem City, Salem.
- 3.Nagarajan,
The Assistant Commissioner of Police,
Salem- West (L & O),
Salem City, Salem.
- 4.Kangavel
Inspector of Police (L & O),
Fairlands Police Station,
Salem City.

5.Balaji

6.Badrinath

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, in the nature of writ of declaration declaring the act of 3rd and 4th respondent conducting Kangaroo Court and attempting to evict the petitioner illegally from his land in T.S.No.2/11 situated in Alagapuram Pudhur Village, Salem District measuring around 6 cents on the pretext of petition enquiry as illegal and arbitrary.

For Petitioner :Mr.Adinarayana Rao

For R1 & R2 :Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Writ Petition has been filed seeking declaration of the act of the 3rd and 4th respondents conducting Kangaroo Court and attempting to evict the petitioner illegally from his land in T.S.No.2/11 situated in Alagapuram Pudhur Village, Salem District measuring around 6 cents on the pretext of petition enquiry as illegal and arbitrary.

2.The petitioner, for the above prayer, has made allegations against the 5th respondent with whom, he has got dispute over 500 sq.ft of land. Both the petitioner and the 5th respondent are adjacent land owners. The petitioner had sent a representation on 31.08.2020 to the Director General of Police, Chennai and marked copy to the 4th respondent. From the representation, it is seen that there have been cases pending between the petitioner and the 5th respondent from the year 2015 onwards and also several representations have been given against each other. It is also seen that the petitioner has relied upon the order of this Court in W.P.No.34236 of 2014, dated 21.07.2015 and strangely, the petitioner did not make any mention with regard to the Writ Appeal in W.A.No.1641 of 2016 which was filed against the order in W.P.No.34236 of 2014. The primary allegation against the Police officials is that they had acted in favour of the 5th respondent. In support of the Police officials, the 5th respondent had parked a container in front of the petitioner's hotel and caused disturbance to his hotel business.

3.The learned Additional Public Prosecutor has strongly objected the prayer in the above Writ Petition and submitted that the petitioner had arrayed the respondents 3 and 4 in his personal capacity with their name. In the representations and the proceedings, the petitioner has made allegations on the respondents 3 and 4 that they had transgressed their authority. There is nothing to show that the respondents 3 and 4 in their individual capacity, had acted against the law. Further, the 4th respondent is named Gangavel not Kandavel. The petitioner without assigning the correct name, arrayed the 4th respondent as one of the party who is a responsible Police officer. The petitioner by filing the case against of the respondents 3 and 4 in their individual name, causing trouble to their name, tarnishing carrier prospects. The learned Additional Public Prosecutor further submitted that the respondents 3 and 4 had acted within their powers which they are empowered to. The Tamil Nadu Housing Board, Salem lodged a complaint against the petitioner in Crime No.192 of 2016, for offence under Sections 447, 448, 341 and Section 3 of Tamil Nadu Public Property (Damage and Loss) Act, which has been pending from the year 2016. Another complaint was registered in Crime No.255 of 2018

and it was forwarded under Section 145 Cr.P.C., to revenue officials, since law and order problem aroused. The petitioner lodged three complaints in C.S.R.Nos.118 of 2015, C.No.226 of 2018 and C.S.R.No.98 of 2019. The 5th respondent lodged a complaint for the same land with regard to the dispute of 500 sq.ft of property in C.S.R.No.97 of 2018, C.No.242 of 2018 and C.No.1662 of 2018, C.No.8550 of 2019 and C.No.850 of 2018. Lastly, the 5th respondent had lodged a complaint to the Deputy Commissioner of Police, Salem which was forwarded to the respondent in C.No.53 of 2020, for which the petitioner was called for enquiry and now, the enquiry is being conducted by Additional Deputy Commissioner, Salem by following the "Lalitha Kumari Vs. Government of Uttar Pradesh reported in 2013 (6) CTC 353". Therefore, the petitioner is to appear before the enquiry officer and give his explanation and submit documents available in his favour and the after enquiry, the enquiry office would take appropriate action.

4.The learned Additional Public Prosecutor further submitted that naming of the officers in the individual capacity and the same made in the Writ Petition are to be deleted. The holding of 'Kangaroo Court' is alien to law. As far as the respondents 3 and 4 are concerned, they had conducted enquiry which they were empowered as per the Code of Criminal Procedure, 1973. Any act which is being carried out by the respondents 3 and 4 is with sanction of law. The petitioner alleging the act of respondents 3 and 4 as 'Kangaroo Court', only to tarnish the image of the respondents 3 and 4, causing untold suffering.

5.The learned counsel for the petitioner submitted that the names of the respondents 3 and 4 mentioned in the above Writ Petition are unintentional and nothing attributed with any intention as regards mentioning of 'Kangaroo Court' in the prayer for the act of the respondents 3 and 4. The petitioner concurs to erase the same in the petition and prayer.

6.Finding that the enquiry is being conducted by the Additional Deputy Commissioner of Police, Salem, the petitioner is directed to appear before the enquiry officer and give his explanation and submit documents if any.

7.With the above observations, this Writ Petition is disposed of. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Director General of Police,
Radhakrishnan Salai,
Santhome, Chennai.
- 2.The Commissioner of Police,
O/o The Commissioner of Police,
Salem City, Salem.
- 3.The Public Prosecutor,
High Court, Madras.

Copy to:
The Additional Deputy Commissioner of Police,
Salem.

W.P.No.9833 of 2021

EV(CO)
CB(30/06/2021)



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