



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.18387 of 2021

S.Prakasam

... Petitioner

Vs.

1. The Director General of Police,
Dr. Radhakrishnan Salai,
Mylapore, Chennai - 600 004.
2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.
3. The Joint Commissioner of Police,
West Zone,
2/14, NH716, Kamarajapuram,
Ambattur, Chennai - 600 053.
4. The Deputy Commissioner of Police,
Old Municipality Building,
1st Floor, Avadi, Near Avadi Market Bus Stop,
Nehru Bazaar,
Chennai - 600 054.
5. The Assistant Commissioner of Police,
HCF Main Road,
Avadi, Chennai - 600 054.
6. The Inspector of Police,
Tiruvallur High Road,
EVR Nagammai Nagar,
Cholambedu,
Avadi, Chennai - 600 109.

7.P.Arun

8.M.S.Sivasubramanian

9.C.Perumalsamy

... Respondents



PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue WRIT OF MANDAMUS, directing the fifth and sixth respondents not to harass the petitioner and his daughter Aparna and her family; directing the first and second respondents to enquire into the incident and take departmental action against the fifth and sixth respondents; directing the respondent Nos.1 to 4 to transfer the investigation of the case to any other Investigating Officer and register First Information Report against the respondent Nos.7 to 9 and investigate the matter; directing the respondent Nos.1 to 4 to give police protection to the petitioner and his family; directing the first respondent to issue directions to all the police station under his jurisdiction to issue an acknowledgement by way of placing the date and time seal along with the signature on the copy of the complaint or issue CSR immediately or set an appropriate process for providing immediate acknowledgement for receipt of the complaint.

For Petitioner : Mr.C.Mohan for C.Senapathi
For R1 to R6 : Mr.A.Damodaran
Government Advocate (Crl. Side)

O R D E R

This Writ Petition is filed to issue a direction, directing the fifth and sixth respondents not to harass the petitioner and his daughter Aparna and her family; directing the first and second respondents to enquire in to the incident and take departmental action against the fifth and sixth respondents; directing the respondent Nos.1 to 4 to transfer the investigation of the case to any other Investigating Officer and register First Information Report against the respondent Nos.7 to 9 and investigate the matter; directing the respondent Nos.1 to 4 to give police protection to petitioner and his family; directing the first respondent to issue directions to all the police station under his jurisdiction to issue an acknowledgement by way of placing the date and time seal along with the signature on the copy of the complaint or issue CSR immediately or set an appropriate process for providing immediate acknowledgement for receipt of the complaint.

2.The petitioner is a senior citizen has filed this writ petition seeking Writ of Mandamus not to forcibly evicted by the respondent Nos.7 to 9, using the sale deed document No.6168 of 2021 dated 12.04.2021. The official police respondents not to take law in their hands and forcibly evict the petitioner, a senior citizen and his daughter viz., Aparna, who is residing with the petitioner and taking care of him.



3.The contention of the petitioner is that the petitioner had purchased the property by sale deed document No.5991 of 2001 dated 30.11.2001 in his son's name when he was a minor and studying in school and having no income of his own, out of my love and affection for the seventh respondent and trusting that he would take care of him and his wife at their old age and would take care of his sisters as well since he has pious obligations. Thereafter he had put up construction and also constructed shops for regular income. In the meantime, the petitioner's wife was diagnosed with stage 3 C - Ovarian Cancer in the year 2010 and the doctors had said that she would survive only for three years or so.

4.The petitioner's son after his marriage with his wife immediately left the petitioner's house and started to live in his in-laws house located at No.11, Subramani Nagar, Periyasekkadu, MMC Colony, Madhavaram, Chennai - 600 051 and thereafter he failed to take care of the petitioner and not cared for his mother during her difficult period. The petitioner's wife died during January, 2018. The petitioner coming to know that his estranged son is attempting to sell the property to third persons. He immediately lodged a complaint with T10 Thirumullaivoyal Police Station and also lodged a complaint before the Revenue Divisional Officer, Thiruvallur District on 30.11.2020 under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The seventh respondent was called for enquiry by the Revenue Divisional Officer. He appeared before the Revenue Divisional Officer and submitted that he had no intention to sell the property, the petitioner continues to reside in the property and the seventh respondent has no objection and gave an undertaking that he will take care of the petitioner.

5.Contra to it, the petitioner's son had executed a power of attorney dated 23.02.2021 to a third party viz., eighth Respondent vide document No.3264/2021 and the petitioner coming to know about the same, through paper publication. Thereafter the petitioner sent a legal notice dated 27.03.2021 to the respondent Nos.7 and 8, despite the same on 15.04.2021 respondent NO.7 along with rowdy elements had threatened the petitioner and his daughter viz., Aparna and forcibly attempted to take the property illegally, immediately on the same day at about 2.00 p.m. a complaint was lodged by the petitioner, to the police emergency No.100. Thereafter the Inspector of Police i.e. the sixth respondent had come there and warned the seventh respondent and his henchmen to move away from the spot and asked the petitioner and the seventh respondent to come to the police station. After which the petitioner went to T10 Thirumullaivoyal



Police station, lodged a written complaint for the incident against the seventh respondent and his henchmen, for which C.S.R.No.292/2021 dated 15.04.2021 was issued by the police. Though the police had come there they have not given any protection and not taken any action on the C.S.R. Thereafter, the petitioner had lodged an online complaint on the same day at about 05.00 p.m. and on the same day, by 11.30 p.m. the petitioner's daughter, checked the Encumbrance Certificate of the said property via online wherein they were shocked to find that on 12.04.2021 the said property was unlawfully sold by the seventh respondent through his power of attorney i.e. eighth Respondent to the ninth respondent i.e. one Perumalsamy, S/o. Chinnaamy for a sale consideration of Rs.70,00,000/- vide Document N.6168 of 2021.

6.In the above said Sale Deed Document No.6168 of 2021, it has been mentioned that as though the possession has been handed over. The respondent Nos.7, 8 and 9 having knowledge that the petitioner is residing in the above said property along with his daughter uninterruptedly right from the year 2001, has made such draft in the sale deed. The petitioner thereafter filed a suit in O.S.No.148 of 2021, which is pending before the District Munsif Court, Ambattur. In the meanwhile, the Revenue Divisional Officer dismissed the complaint filed by the petitioner vide Na.Ka.No.189/2021/A1 dated 20.07.2021, against which the petitioner is filed a petition before the District Collector, Thiruvallur and the same is pending. Taking advantage of the dismissal order passed by the Revenue Divisional Officer, Thiruvallur, 7th Respondent and 8th Respondent in connivance with the police personnels are attempting to take over the property of the petitioner.

7.The learned Government Advocate [Crl. Side] submits that in this case the petitioner as well as the seventh respondent gave a complaint and a counter complaint against each other periodically. Each time when complaint is received either personally or through phone and the police rushed to the scene of occurrence taken steps. The police submits that the Revenue Divisional Officer had dismissed the petition of the petitioner on the undertaking of respondent No.7 that he would take care of his father/petitioner's needs and also to pay a sum of Rs.5,000/- monthly. Admittedly, the said amount not paid to the petitioner. Further the petitioner is also not inclined to receive the amount. The petitioner now challenged the order of the Revenue Divisional Officer before the District Collector, Thiruvallur.

8.Considering the submissions and on perusal of the materials and on the specific admission of the learned



Government Advocate [Crl. Side] on instruction from the police states that the petitioner is in peaceful possession and enjoyment of the property and receiving rents and living with his daughter viz. Aparna, there are civil suit and appeal pending before the District Munsif Court, Thiruvallur and District Collector, Thiruvallur respectively under the Senior Citizen Act. The grievance of the petitioner is that the police personnel and others not to obstruct and not to disturb the petitioner's peaceful possession, which the police have undertaken. Further submitted that the petitioner Senior Citizen and his daughter Aparna would be protected from any threat or attack from R7, R8 and R9 and from their henchmen.

9. Recording the submissions of the learned Government Advocate [Crl. Side], this Writ Petition stands disposed of accordingly directing the authorities to give protection to the petitioner and his daughter viz., Aparna for their life and property. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ah

To

1. The Director General of Police,
Dr. Radhakrishnan Salai,
Mylapore, Chennai - 600 004.
2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.
3. The Joint Commissioner of Police,
West Zone,
2/14, NH716, Kamarajapuram,
Ambattur, Chennai - 600 053.
4. The Deputy Commissioner of Police,
Old Municipality Building,
1st Floor, Avadi, Near Avadi Market Bus Stop,
Nehru Bazaar,
Chennai - 600 054.



5. The Assistant Commissioner of Police,
HCF Main Road,
Avadi, Chennai - 600 054.

6. The Inspector of Police,
Tiruvallur High Road,
EVR Nagammai Nagar,
Cholambedu,
Avadi, Chennai - 600 109.

7. The Public Prosecutor,
High Court,
Madras.

+5CCs to Mr.C.Senapathi, Advocate, Sr.No.45577

W.P.No.18387 of 2021

RSV (CO)
K.RK. (24.09.2021)