



W.P.No.19709 of 2022
and W.M.P.No.19028 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2022

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.19709 of 2021
and
W.M.P.No.19028 of 2022

Tmt.Vijayalakshmi Swaris

... Petitioner

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Exercise Department,
Secretariat, Chennai - 600 009.

2.The Registrar,
The State Human Rights Commission,
143, P.S.Kumarasamy, Rajasalai,
Greenways Road, Chennai - 600 028.

3.Thiru SX Rajamannar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the second respondent in SHRC No.9201 of 2017 dated 16.03.2018 and to quash the same.



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For Petitioner : Mr.R.Kalyana Sundaram
For R1 : Mr.P.Gurunathan, AGP
For R2 : Mr.S.Karthikeyan, Standing Counsel

ORDER

(R.HEMALATHA, J.)

The petitioner is the respondent in SHRC No.9201 of 2017 on the file of the State Human Rights Commission, Tamilnadu. He has filed the present petition to issue a writ of certiorari to call for the records in SHRC No.9201 of 2017 on the file of State Human Rights Commission, Chennai and quash the same.

2.The third respondent SX Rajamannar was the complainant in SHRC No.9201 of 2017. The case of the complainant/third respondent is that he entered into a registered lease agreement in respect of a premises at No.2, Anna Nedumpathai, Choolaimedu, Chennai with one Thiru. Senthil Arumugam on 04.02.2016 and accordingly, Senthil Arumugam occupied the same as a tenant owned by him. On 15.02.2016 the present writ



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petitioner namely Vijayalakshmi Swaris, her son Rocky Swaris and her husband Betrand Swaris along with some goondas came over to his shop and threatened him and his tenant with dire consequences and also directed him to close down the shop. Accordingly, Thiru. Senthil Arumugam had to close down the shop and subsequently, he also left Chennai. On 28.11.2017, when the third respondent/complainant opened the shop the present petitioner along with her family members and rowdy elements once again came over to the shop and threatened him.

3. According to the complainant, the present writ petitioner has been troubling the third respondent/complainant. With these allegations the third respondent filed the complaint and on receipt of the said complaint the commission issued summons to the writ petitioner/Inspector of Police and she also appeared before the commission on 24.01.2018. A copy of the complaint was furnished to her and the case was adjourned to 13.02.2018 for filing counter. Since the writ petitioner did not appear before the commission on 13.02.2018, she was set *ex parte*. The grievance



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of the present writ petitioner is that merely because the writ petitioner absented herself for one hearing i.e. 13.02.2018 the State Human Rights Commission set her *ex parte* and passed the following recommendation to the Government.

RECOMMENDATION

- i. *The Government of Tamilnadu shall pay a compensation of Rs.75,000/- (Rupees Seventy Five Thousand Only) to the complainant Thiru.S.X.Rajamannar, residing at First Floor, No.2, Anna Nedumpathai, Choolaimedu, Chennai - 600 094 within four weeks from the date of receipt of this order ; and*
- ii. *The Government shall recover the said sum of Rs.75,000/- (Rupees Seventy Five Thousand Only) from the respondent subsequently as per the rules and regulations.*
- iii. *The Government of Tamil Nadu shall instruct the Commissioner of Police, Greater Chennai to give protection to the life and property of the complainant."*

4.It is seen from the records that the third respondent/complainant alone was examined as PW1 and ten documents



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were marked on his side. The SHRC had held that the present writ petitioner had failed to safeguard the complainant's right to protect his property and also failed to protect the complainant and his tenant.

5.Heard Mr.R.Kalyana Sundaram, learned counsel appearing for the writ petitioner, Mr.P.Gurunathan, learned Additional Government Pleader appearing for the first respondent and Mr.S.Karthikeyan, learned Standing Counsel appearing for the second respondent.

6.Mr.R.Kalyana Sundaram, learned counsel appearing for the writ petitioner would contend that merely because the writ petitioner/Inspector of Police absented herself on 13.02.2018 she was set *ex parte* and the SHRC has proceeded to decide the matter mainly based on the evidence of the complainant.

7.Per contra Mr.S.Karthikeyan, learned Standing Counsel appearing for the second respondent would contend that the Inspector of



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Police was served with a copy of the complaint on 24.01.2018 and in her presence the matter was adjourned to 13.02.2018 and no explanation was offered by the writ petitioner for her absence on 13.02.2018.

8.The main grievance of the third respondent/complainant is that on 15.02.2016 the present writ petitioner, her son and her husband came over to his shop which was rented out to one Senthil Arumugam with some rowdy elements and threatened him and Senthil Arumugam to close the shop and also tried to extract money from them. It is also the case of the complainant that in the year 2012 the writ petitioner's son Rocky Swaris entered into a lease agreement with the third respondent / complainant for running a cloth shop but refused to pay the rents to the complainant. On 14.01.2012, FIR was registered against the son of the Writ Petitioner as per the directions of this Court in Crl.OP.No.6538 of 2016. It is seen from the orders passed by the SHRC that the present writ petitioner has not been given sufficient opportunity to putforth her defence. It is true that she was absent on 13.02.2018 on which date the matter was posted for filing



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counter. Her contention is that she gave instructions to one Mr.R.Senthil Kumar, Advocate to appear on her behalf but she came to know about the orders of SHRC through social media and newspaper. In the circumstances, we feel that an opportunity should be given to the present writ petitioner to putforth her contentions before the SHRC.

9.Accordingly, the orders of SHRC is set aside and the matter is remitted back to SHRC for fresh consideration and the present writ petitioner is directed to appear before the commission. The commission is requested to dispose the case as expeditiously as possible.

10.With the above observations, the Writ Petition is allowed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

(V.M.V.,J.) (R.H.,J.)

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order



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V.M.VELUMANI, J.
and
R. HEMALATHA, J.
mtl

To

- 1.The Principal Secretary to Government,
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The State Human Rights Commission,
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