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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No. 21780 of 2021
and
W.M.P. No. 22960 of 2021

D. Leo .. Petitioner

Versus

1. The District Collector
Chengalpet District
Chengalpet
2. Superintendent of Police
Chengalpet District
Chengalpet
3. The Divisional Revenue Officer
Tambaram
Chengalpet
4. E.F. Radhika

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 and 3 to take action on the petitioner's complaint dated 15.06.2021 against the 4th respondent and her son Prischille Roshan Thomas from entering into the petitioner's house situated within the campus of Assisi Garden.

For Petitioner : Ms. Kanimozhi Mathi

For Respondents : Mr. Stalin Abhimanyu
Government Counsel for R1-R3

Mr.B.Kumarasamy for R4

ORDER

The present petition has been filed by the petitioner seeking to issue a Writ of Mandamus, directing the respondents 1 and 3 to take action on his complaint dated 15.06.2021 against



the 4th respondent and her son Prischille Roshan Thomas from entering into his house situated within the campus of Assisi Garden.

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2. According to the petitioner, he is a senior citizen aged 80 years and was employed as Engineer-Manager with BHEL and took voluntary retirement from service on 24.09.1999. Out of his retirement benefits, he purchased properties situated at Assissi Garden, Assisi Nagar, Puthupakkam Village, Vandalur Taluk, Chengalpattu District in the name of his wife Mrs. Josphine Leo through a registered sale deed 21.08.2003 vide Document No. 2326/2002. Further, he founded two trusts namely Assisi Foundation Trust and Assisi Apostolic Family Trust and permitted the said trusts to function at the aforesaid premises. It is also stated that the petitioner along with his wife were residing in the aforesaid address since 2003, wherein he had constructed the trust and his residence. While so, on 03.09.2018, he was admitted in hospital owing to ailment and was bedridden. During the course of his hospitalisation, a settlement deed was executed by his wife in favour of the fourth respondent vide Document No. 760/BK-I/2019, dated 24.01.2019 which was not known to him nor anyone of his family members. After execution of the settlement deed on 24.01.2019, his wife died on 22.04.2019. After the death of his wife, the fourth respondent constantly harassed him with goons and hooligans. The fourth respondent also denied the petitioner entry into his own house and prevented him from peacefully reside there. Further, the fourth respondent permitted her son Prishchille Roshan Thomas to stay inside the petitioner's house who is having the lock and key for the residence. At this stage, the petitioner came to know about the settlement deed executed by his wife in favour of the fourth respondent which he was not aware of. On the strength of the settlement deed, the petitioner is prevented from entering into his own property. Unable to bear the harassment constantly putforth by the fourth respondent, he sent a complaint on 15.06.2021 to the first respondent seeking to take appropriate action against the fourth respondent. On receipt of the same, the first respondent by a letter dated 17.06.2021 issued direction to the second and third respondents to take action thereof. However, it is stated that the second and third respondents did not take any action at all. Feeling resentful, the petitioner has approached this court with this writ petition seeking to issue appropriate direction to the third respondent to consider his representation dated 15.06.2021 and to take action thereof.

3. On notice, the fourth respondent filed a counter affidavit repudiating the various averments made by the



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petitioner in the affidavit filed in support of the writ petition. The fourth respondent also pointed out that there are writ petitions filed before this Court in WP Nos. 8604 of 2021, 16959 of 2021 and 17319 of 2021. It is stated that it is the petitioner, who had engaged rowdy elements to forcibly dispossess the fourth respondent from the property in question where she is peacefully residing along with her son. It is also stated that the execution of the settlement deed by her mother on 24.01.2019 is known to the petitioner herein and the petitioner cannot feign ignorance about it. The fourth respondent also referred to the suit in O.S. No. 128 of 2020 filed by the writ petitioner before the District Munsif Court, Chengalpet for declaration and permanent injunction against the fourth respondent and her son. Pending suit, the petitioner filed I.A. No. 435 of 2020 for interim injunction but the same was dismissed. Aggrieved by the same, the petitioner filed C.M.A. No. 3 of 2021 before the Principal Subordinate Judge, Chengalpattu and the same was also dismissed on 20.09.2021. In the meantime, the fourth respondent has filed a suit in O.S. No. 108 of 2020 before the District Munsif, Chengalpet against the Trustees of the Trust founded by the petitioner. Pending the suit in O.S. No. 108 of 2020, interim injunction was granted in I.A. No. 414 of 2020 on 21.01.2021. As against the same, the petitioner has filed C.M.A. No. 1 of 2021 and the same was also dismissed by the Principal Subordinate Judge, Chengalpet. Therefore, it is stated that the present writ petition has been filed by suppressing the material particulars. The fourth respondent therefore prayed for dismissal of the writ petition.

4. Heard the learned counsel appearing for either side and perused the materials placed on record.

5. The fourth respondent herein is the daughter of the petitioner. The dispute between the petitioner and the fourth respondent pertains to the possession and title of the property in question. The petitioner as well as the fourth respondent have already filed civil suit as also writ petitions before this Court for various relief. Considering the above facts and circumstances of the case and having regard to the submissions made by the learned counsels appearing for either side, this court, without expressing any opinion on merits of the case, directs the 3rd respondent to take appropriate action on the basis of the complaint dated 15.06.2021 given by the petitioner, and pass appropriate orders, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.



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6. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

dhk/rsh

To

1. The District Collector
Chengalpet District
Chengalpet
2. Superintendent of Police
Chengalpet District
Chengalpet
3. The Divisional Revenue Officer
Tambaram
Chengalpet

+1cc to Mr.B.Kumarasamy, Advocate, S.R.No.56342

+1cc to the Government Pleader, S.R.No.56651

WP No. 21780 of 2021

PCH(CO)
SU(01/12/2021)