



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2021

CORAM:

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.22337 of 2021
and
W.M.P.No.23578 of 2021

1.L.Sivarajan
2.Velu
3.Santhi
4.Sheela

... Petitioners

-Vs-

1. The Inspector of Police,
S-10, Pallikaranai Police Station,
Pallikaranai,
Chennai - 600 113.

2. C.Krishnan
3. C.Sunil Kumar
4. C.Gokulakrishnan

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus directing the first respondent not to interfere in the civil dispute and with the peaceful possession and enjoyment of the petitioner's property situated at Door No.2/386, Sunnambukulathur Village, 200 Feet Radial Road, Viduthalai Nagar, Madipakkam Prt-II, Sholinganallur Taluk, Kancheepuram District, comprised in Survey No.386/11A when civil dispute between the petitioners and the second to fourth respondents is pending in O.S.No.206/2019 before the Hon'ble Additional District Munsif, Alandur.

For Petitioner : Mr.MA.Gouthaman

For Respondent 1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

For Respondents 3 & 4: Mr.N.Jothi
for Mr.S.Vinod & B.Nataraj



ORDER

This writ petition has been filed seeking to issue a Writ of Mandamus directing the first respondent not to interfere in the civil dispute and with the peaceful possession and enjoyment of the petitioners' property situated at Door No.2/386, Sunnambukulathur Village, 200 Feet Radial Road, Viduthalai Nagar, Madipakkam Prt-II, Sholinganallur Taluk, Kancheepuram District, comprised in Survey No.386/11A when civil dispute between the petitioners and the second to fourth respondents is pending in O.S.No.206/2019 before the learned Additional District Munsif, Alandur.

2.The learned Counsel for the petitioner submitted that the first and second petitioners are the absolute owners of the property measuring an extent of 6048 sq. ft. situate at Door No.2/386, Sunnambukulathur Village, 200 Feet Radial Road, Viduthalai Nagar, Madipakkam Part-II, Sholinganallur Taluk, Kancheepuram District comprised in Survey No.386/11A which was purchased by them under registered sale deed dated 23.11.2020 as Doc. No.6999 of 2020 and sale deed dated 19.03.2021 as Doc. No.2775 of 2021 on the file of Sub Registrar Office, Pallavaram. He further submitted that as there was a dispute regarding share in the above said property, a suit was filed by the third and fourth petitioners and others in O.S.No.206 of 2019 on the file of the learned Additional District Munsif at Alandur and the same is pending. Pending suit, the third respondent is interfering with the peaceful possession of the petitioners and caused damage to their property worth about Rs.3,70,000/-. Therefore, a complaint lodged before the first respondent on 29.09.2021 was registered as Crime No.1038 of 2021 and the same is pending. He further submitted that in spite of an order of injunction granted in favour of the petitioners and pending suit, the first respondent sealed the premises of the petitioners. Therefore, the petitioners have come forward with the present Writ Petition seeking direction to the first respondent not to interfere in the civil dispute and with the peaceful possession and enjoyment of the petitioners property situated at Door No.2/386, Sunnambukulathur Village, 200 Feet Radial Road, Viduthalai Nagar, Madipakkam Prt-II, Sholinganallur Taluk, Kancheepuram District, comprised in Survey No.386/11A.

3.The learned Additional Public Prosecutor appearing for the first respondent submitted that the property in dispute originally belonged one Godhanda Naicker. He died leaving behind his wife Kuppammal and his son Selvaraj, minor son Rajendran and Palani. In the year 1980, Kuppammal and Selvaraj, wife and son of late Godhanda Naicker sold the property to one Meena for valuable consideration. In the year 1991, the said Meena in turn



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sold it to one Gokula Krishnan and Sunil Kumar who are the sons of Chellappan who is a de-facto complainant in Crime No.1037/21 on the file of Pallikaranai Police Station. Thus, the above said Gokula Krishnan and Sunil Kumar executed a settlement deed in favour of their handicapped brother Krishnan in the year 2011 and thereafter patta was also granted in favour of Krishnan. Subsequently, in the year 2019, the said Krishnan died. Selvaraj, son of Godhanda Naicker, also died subsequently. Therefore, at present, the legal heirs of Selvaraj, namely, Shanthi (wife), Sheela (daughter) and the brother of Selvaraj executed a joint power of attorney in favour of one Sudhakar. Apart from that, the then minor son Rajendran, son of Godhanda Naicker, sold his share of property, as if it was available to him, to one Sivarajan, who is the first petitioner herein. Therefore, the legal heir of Selvaraj, viz., Shanthi, Sheela and Palani, filed a Civil Suit on the file of Aalandur Additional District Munsif in O.S.No.206/2019 by mentioning Survey No.386/11-A. However, the disputed property is situated at 386/11. The said Sivarajan along with others entered into the property on 01.10.2021 and damaged the property based on which First Information Report in Crime No.1037 of 2021 was registered. Since property dispute was involved and civil suit is pending and there were two rival factions, the Inspector of Police, S-10 Pallikaranai Police Station had referred the matter to Revenue Divisional Officer by initiating proceedings under Section 145 Cr.P.C. and at present, the case is pending with Revenue Divisional Officer, South Chennai Zone, Guindy. Therefore, the learned Additional Public Prosecutor prayed this Court to dismiss the Writ Petition.

4.Mr.N.Jothi, learned Counsel for the respondents 3 and 4 submitted that knowing fully well that the second respondent is not alive on the date of filing of this Writ Petition, the petitioners have arrayed him as a party to this Writ Petition. He further submitted that the first petitioner herein is a professional land grabber and he intentionally had created documents and trespassed into the property of the respondents 3 and 4. The first petitioner had obtained an order of injunction misrepresenting the Court. Therefore, due to the conduct of the first petitioner in this Writ Petition and there was a rival claim over the same property, the Inspector of Police, S-10 Pallikaranai Police Station/first respondent herein sent a report to the Revenue Divisional Officer attracting the provisions of Section 145 of Cr.P.C. for adjudication to maintain peace in the area. Instead of appearing before the Revenue Divisional Officer in the pending enquiry under Section 145 of Cr.P.C., the petitioners had approached this Court by bye-passing the due process of law. Therefore, the Writ Petition has to be dismissed.



5. Considering the above submissions, this Court is of the view that writ will not lie against the lawful action carried out by the officers of the State in enforcement of law and order. As there was a rival claim over the same property, the Investigation Officer had sent a report to the Revenue Divisional Officer and based on the report of the Investigation Officer, the Revenue Divisional Officer had seized of the matter. Therefore, the Writ Petition is dismissed. The writ petitioners shall cooperate with the pending proceedings before the Revenue Divisional Officer concerned. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CJ CONF)

//True Copy//

Sub Assistant Registrar

To

The Inspector of Police,
S-10, Pallikaranai Police Station,
Pallikaranai,
Chennai - 600 113.

+2CCs to Mr.S.Vinod, Advocate, Sr.No.53578

+1CC to Mr.MA.Gouthaman, Advocate, Sr.No.53581

W.P.No.22337 of 2021

RSI (CO)

K.RK. (01.11.2021)