



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD)No.1447 of 2019

and W.M.P. (MD)No.1222 of 2019

WEB COPY

S.Ilangovan

... Petitioner

Vs.

1.The Sub Collector,
Cum Executive Magistrate,
Paramakudi, Ramanathapuram District.

2.The Superintendent of Police,
Ramanthapuram District,
Ramanathapuram.

3.The Inspector of Police,
Paramakudi Town Police Station,
Paramakudi, Ramanthapuram District.

4.Boopathyammal

5.Saravanan

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the first respondent to taken necessary steps to implement the order passed in his proceedings in Na.Ka.No.A2/2445/2015 dated 02.06.2015 thereby restraining the respondents 4 and 5 from interfering with our possession and enjoyment of the property comprised in Old Survey No.570 new T.S.No.42 Block 12, Ward G, measuring about 1443 sq.ft situated at Door No.4/141, Mela Vaniyar Street, Kovalan Street, Paramakudi, Ramanathapuram District based on the petitioner representation dated 09.12.2018 within a time frame as fixed by this Court.

For Petitioner

: Mr.B.Prahalad Ravi

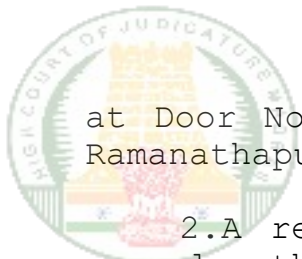
For R1 to R3

: Mr.A.Thiruvadi Kumar,

Additional Public Prosecutor.

ORDER

This writ petition is filed seeking Mandamus directing the Sub collector/first respondent to implement the order passed by him in Na.Ka.No.A2/2445/2015 dated 02.06.2015 and restraining the fourth and fifth respondents from interfering with possession of the petitioner in respect of the property comprised in Old Survey No.570 new T.S.No.42 Block 12, Ward G, measuring about 1443 sq.ft situated



at Door No.4/141, Mela Vaniyar Street, Kovalan Street, Paramakudi, Ramanathapuram District.

2.A reading of the order, which is sought to be implemented, reveals that it is the proceedings of the Sub Collector cum Executive Magistrate in proceedings initiated under Section 145 Cr.P.C., pursuant to the complaint given by one Guruvammal and five others. In the said proceedings, the Sub Collector has observed that the petitioner, Guruvammal and others have been in possession and occupation of the premises for quite long time and therefore, the person, who claim title has to ascertain their right through civil Court and till then, the parties shall not disturb the status-quo.

3.In the proceedings, the first respondent has observed that a civil suit had already been initiated and the same is pending. Now the learned counsel for the petitioner would submit that there is no civil suit initiated by neither of the party and therefore, the order passed by the Sub Collector, by exercising his power under Section 145 Cr.P.C., has to be implemented.

4.The third respondent/Inspector of Police has filed a report stating that one Sethuraman, husband of the fourth respondent, died after the impugned proceedings. Thereafter, the fourth and fifth respondents have started disturbing the petitioner's family and tried to trespass. Hence, the petitioner gave a complaint on 03.12.2018 and the same was registered in Cr.No.231 of 2019 against the fourth and fifth respondent. The report of the third respondent has brought to the notice of this Court that the petitioner's family and the husband of the fourth respondent have misrepresented before the first respondent while initiation of proceedings under Section 145 Cr.P.C., as if civil suit is pending. But, in fact, neither of the parties have approached the civil Court to ascertain the title and possession. As of now, only Guruvammal is resided in the disputed property and the petitioner is residing elsewhere and he carrying dhobi business in the said property.

5.When this Court asked the learned counsel for the petitioner as to whether any civil suit has been initiated, he answered in negative. As far as the proceedings of the Executive Magistrate under Section 145 Cr.P.C., is concerned, it is intended to prevent breach of peace arising out of dispute in connection with immovable property. The Executive Magistrate under Section 145(4) Cr.P.C., shall without reference to the merits or the claims of any of the parties to a right to possess the disputed property, shall pass order restraining them or forbearing them from disturbing the status-quo. Any order passed by the Executive Magistrate under Section 145 Cr.P.C., is temporary in nature and the spirit behind this order is to prevent the breach of peace. The Executive Magistrate is not a competent person to decide the title. As far as the order is concerned in the instant case, the order of



the first respondent is to settle the dispute of title through competent Court and till then, the parties should not cause any breach of peace and enable them to decide the title and to prevent causing any law and order problem, he has ordered status-quo.

6.The petitioner herein cannot take any advantage of the said order and request to direct the first respondent to implement the said order tantamount to declaration of title. From the report of the third respondent, it is clear that the petitioner is not residing there, however, he is carrying his business in the portion of the premises. If any attempt is made by the petitioner or anybody on his behalf to renovate the property, it will lead to law and order problem and disturb the public peace.

7.In such circumstances, if the petitioner wants to protect his possession, it is for him to workout his remedy before the competent civil Court. There is no merits in this petition. Hence, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gns

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Sub Collector,
Cum Executive Magistrate,
Paramakudi, Ramanathapuram District.
- 2.The Superintendent of Police,
Ramanthapuram District,
Ramanathapuram.
- 3.The Inspector of Police,
Paramakudi Town Police Station,
Paramakudi, Ramanthapuram District.



4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

W.P. (MD) No.1447 of 2019
14.12.2021

SRK (CO)

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