



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD)No.9567 of 2019

(Through video Conference)

K.R.Jayachitra

.. Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Superintendent of Police,
Sivagangai District,
Sivagangai.

3.The Regional Manager,
The Tamilnadu Industrial Investment
Corporation Ltd.,
Annanagar,
Madurai-625 020.

4.The Branch Manager,
The Tamilnadu Industrial Investment
Corporation Ltd.,
SPK Corporate Center II Floor,
45,Shanmugaraja Road,
Karaikudi-630 002.

5.Sampath
Loan-in-Charge,
The Tamilnadu Industrial Investment
Corporation Ltd.,
SPK Corporate Center II Floor,
45,Shanmugaraja Road,
Karaikudi-630 002.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the second respondent to enquire into the petitioner's representation, dated 26.03.2019 and to take appropriate action against the 4th and 5th respondents, who unlawfully entered into the petitioner's company taken away things worth of Rs.13,83,500/- and hand over the same to the petitioner.

For Petitioner : Mr.M.Sankar

For R1 and R2 : Mr.B.Thanga Aravindh
Government Advocate

For R3 : No appearance

For R4 : Mr.R.Saravanan



ORDER

Alleging that the fifth respondent unlawfully entered into the go-down of the petitioner and repossess the material, on the basis of the letter, dated 15.06.2018, forwarded by the first respondent/District Collector to the second respondent/Superintendent of Police, Sivagangai District, the present writ petition is filed to direct the second respondent to enquire into the matter and hand over the material worth about Rs.13,83,500/-.

2. In this writ petition, the petitioner claims that she availed loan from fourth respondent for a sum of Rs.10,00,000/- on 20.11.2015 and thereafter, issued a foreclosure notice on 03.03.2017 without releasing the subsidy amount of Rs.3,86,000/- as promised. In the said circumstances, the property was now taken possession pursuant to the subsequent foreclosure notice, dated 18.05.2017.

3. The learned Government Advocate would submit that with very same averments and for the same relief, the husband of the petitioner earlier filed W.P(MD).No.7252 of 2019 before this Court and this Court on 27.03.2019, passed the following order:

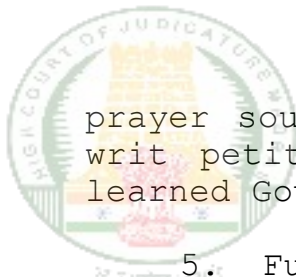
"The petitioner seeks an issuance of a Writ of Mandamus to direct the second respondent to enquire on the representation of the petitioner dated 02.06.2018, wherein, he had alleged that the fourth and fifth respondents herein had unlawfully entered into his premises and removed the articles worth Rs.13,83,500/-.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the respondents.

*3.If the petitioner is aggrieved that his complaint to the Police to register a criminal case has not borne fruits, then, as per the judgment of the Division Bench of this Court reported in **2018-2-L.W. (Crl.) 489- (G.Prabakaran Vs. The Superintendent of Police, Thanjavur District and another)**, the petitioner has to approach only the Superintendent of Police, or the Jurisdictional Magistrate, with a complaint under Section 190 Cr.P.C.*

4.In view of the above, the Writ Petition is not maintainable and the same stands closed accordingly. No costs."

4. Suppressing the above said fact, the present writ petitioner has filed the present writ petition with same cause of action, same relief and same averments claiming as if she is the owner of the property and availed loan from the fourth respondent. On perusing the order passed by this Court in W.P(MD)No.7273 of 2019 and the



prayer sought in that writ petition and the prayer sought in this writ petition, this Court finds that the submission made by the learned Government Advocate is correct.

5. Further, the learned counsel appearing for the fourth respondent would submit that it is a clear abuse of process of law by the writ petitioner by filing the present writ petition after disposal of the earlier writ petition for the same relief before this Court, when the statutory remedy, if any, is to move the territorial Tribunal.

6. This Court, on considering the submission and on perusing the records finds that the petitioner herein has come to this Court with unclean hands. First, she has invoked the writ jurisdiction alleging that the complaint given to the police had not been acted upon inspite of the fact that the TIIC Finance institution has resorted to SARFAESI Act and resorted to recover all the money following the due process of law. Secondly, she has suppressed the filing of writ petition by her husband for the very same relief and dismissal of the said writ petition stating that the writ petition is not maintainable. Yet another factor, which cause disturbance to this Court is that the very same counsel, who has filed writ petition for the husband has filed this petition for the wife. Since the petitioner approached this Court with unclean hands and abuse the process of law, this writ petition is dismissed with cost of Rs.50,000/- (Rupees Fifty thousand only) payable to the State Legal Services Authority attached to the Madurai Bench of Madras High Court, Madurai, within a period of eight weeks from the date of receipt of a copy of this order. No Costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

PJL

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 District Collector,
Sivagangai District,
Sivagangai.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Superintendent of Police,
Sivagangai District,
Sivagangai.

3.The Officer Incharge,
The State Legal Services Authority,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.R.SARAVANAN,Advocate, SR.No.38955 DATED:15.12.2021

W.P. (MD)No.9567 of 2019
15.12.2021

ARK(CO)
GC(06.01.2022) 4P 5C