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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.NOS.2200 AND 2572 OF 2022

W.P.NO.2200 OF 2022

M.Ramesh

... Petitioner

.Vs.

1. The Principal Secretary,
Home Department,
Tamil Nadu State,
Fort St. George,
Chennai - 600 009.
2. The Director General of Police,
Tamil Nadu Police,
Mylapore, Chennai - 600 004.
3. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.
4. The Deputy Commissioner of Police,
(Law and Order),
Adyar District,
L.B.Road, Adyar,
Chennai - 600 020.
5. The Assistant Commissioner of Police,
Guindy Range, Guindy,
Chennai - 600 032.
6. The Inspector of Police (L & O),
J-3, Guindy Industrial Estate Police Station,
Guindy, Chennai - 600 032.
7. V.Sivaraj
8. K.Kumar
9. S.Senthil



10. Ramamoorthy,
Working as Inspector of Police,
J-3, Guindy Industrial Estate Police Station,
Guindy, Chennai - 600 032.

11. Mathiazhagan,
Working as Sub-Inspector of Police,
J-3, Guindy Industrial Estate Police Station,
Guindy, Chennai - 600 032.

12. M.Sureshkumar,
Working as Special Sub-Inspector of Police,
J-3, Guindy Industrial Estate,
Police Station, Guindy,
Chennai - 600 032.

... Respondents

PRAYER:-

Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents 1 to 6 to take appropriate steps to save the petitioner and his family members from the endanger of the petitioner and his family members life and liberty from the illegal and high-handed act of the respondents 7 and 12 and consequently direct the 3rd Respondent to take steps under Tamil Nadu Act 14/82 against the respondents 7 and 8.

For Petitioner : Mr.P.K.Sabapathi

For R1 to R6 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

W.P.NO.2572 OF 2022

K.Kumar

... Petitioner

.Vs.

1. The Assistant Commissioner of Police,
J3 Police Station,
Guindy, Chennai - 600 032.

2. The Inspector of Police,
J-3 Police Station,
Guindy, Chennai - 600 032.

3. M.Ramesh



4. M.Sundarraaj

5. M.Sivaraj

... Respondents

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PRAYER:-

Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd Respondent to provide police protection to the petitioner based on the complaint dated 31.01.2022.

For Petitioner : Mr.J.Sudhakaran

For R1 & R2 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

COMMON ORDER

W.P.No.2200 of 2022 has been filed seeking for writ of Mandamus directing the respondents 1 to 6 to take appropriate steps to save the petitioner and his family members from the endanger of the petitioner and his family members life and liberty from the illegal and high-handed act of the respondents 7 and 12 and consequently direct the 3rd respondent to take steps under Tamil Nadu Act 14/82 against the respondents 7 and 8.

2. W.P.No.2572 of 2022 has been filed seeking for a direction to the 2nd respondent to provide police protection to the petitioner based on the complaint dated 31.01.2022.

3. Since, the dispute in both the matters revolve around the title in respect of one and the same property, they are taken up together for hearing, with consent of both the parties.

4. Facts in W.P.No.2200 of 2022:-

i) The petitioner is the joint owner of the property situated at Door No.2/21, First Reddy Street, Ekkattuthangal, Chennai - 600 032, comprised in T.S.No.88/1, sub-divided as 88/3, measuring an extent of 4800 sq.ft. The petitioner and his two brothers viz., M.Sundar and M.Sivaraj are in joint possession and enjoyment of the said property.



ii) One K.Kumar/8th respondent, who is permanently residing at Ashok Nagar, by taking advantage of the lock down, forcefully entered into the house property on 23.01.2022 and had also assaulted the petitioner and made an attempt to evict the petitioner from his house and is preventing the petitioner and his family members to enjoy peaceful possession.

iii) When the petitioner had gone to J3, Guindy Police Station to prefer a complaint against the 8th respondent, the 7th and 9th respondents were already there and the 8th respondent came to the police station subsequently. In the meanwhile, the petitioner was ordered to by the 10th respondent to sit on the floor. Subsequently, the petitioner's Advocate came to the Police Station and on the instruction of the petitioner, he had drafted a complaint and it was handed over to the 10th respondent, however, the petitioner was forcefully retained in the police station from 9.30 a.m., to 8.00 p.m., and the police had also threatened the petitioner.

iv) The petitioner was given to understand that respondents 7 and 8 had earlier attempted to dispossess one L.Chandru, owner of the adjacent property, by force, in respect of which, a case was registered by the respondent and pending trial in C.C.No.14 of 2021 on the file of the Court of Metropolitan Magistrate, Allikulam, Egmore (LG-II) for framing of charges. Fearing that, the 8th respondent may evict him also, illegally with the help of police in a similar fashion, he has filed the present petition seeking for police protection.

5. Facts in W.P.No.2572 of 2022:-

i) The petitioner, who is the 8th respondent in W.P.No.2200 of 2022, is the absolute owner of the property to an extent of 870 Sq.ft. in Survey No.88, Block No.4, Mudhal Reddy Street, Ekkattuthangal Village, Guindy Taluk, Chennai District. The third respondent, who is the petitioner in W.P.No.2200 of 2022 and respondents 4 and 5 are trespassers, who have no rights. They have encroached into the property and therefore, the petitioner has filed a suit for declaration and recovery of possession in O.S.No.5009 of 2004 against respondents 3 to 5 before the VI Assistant Judge, City Civil Court, Chennai. The said suit was decreed in favour of the petitioner on 07.01.2009. Against the judgment and decree, respondents 3 to 5 had filed an Appeal in A.S.No.492 of 2009 before the VII Additional Judge, City Civil Court, Chennai and the Appellate Court, dismissed the appeal by confirming the judgment and decree passed by the Trial Court in O.S.No.5009 of 2004, by Judgement dated 27.2.2012. Against the dismissal of the decree passed in the said appeal, respondents 3 to 5 have filed a Second Appeal in S.A.No.162 of



2014 and the same is pending before this Court.

ii) Pursuant to the above decree, the petitioner has been paying the property tax and also making payment of Electricity Bill to the Electricity Board and the petitioner had been in enjoyment of the property.

iii) Whiles, respondents 3 to 5, in order to grab the property of the petitioner by fraudulent means, have entered into a Partition Deed dated 13.06.2018. On 20.01.2021, when the petitioner had gone out the station to attend a marriage at Madurai, respondents 3 to 5 have unlawfully entered into the property and tried to put up a shed in the property. On coming to know about the same, on 23.01.2022, the petitioner had requested respondents 3 to 5 to stop the work or otherwise, he would give a complaint to the police station concerned, whereas, the 3rd respondent and his son along with some rowdy elements, jointly attacked the petitioner with wooden logs and they also kicked him and during the incident, the petitioner's finger got fractured and based on the complaint given by the petitioner on 23.1.2022, a case in Crime No.61 of 2022 was registered against respondents 3 to 5 and the other anti-social elements and even thereafter, respondents 3 to 5, with anti-social elements, have continued their threats and thus, fearing danger to his life, the petitioner has given a complaint on 31.01.2022 to the 2nd respondent and since no action was taken, the present writ petition has been filed.

6. Mr.P.K.Sabapathi, learned counsel appearing for the petitioner in W.P.No.2200 of 2022 would submit that petitioner is in possession of the property for time memorial and the 8th respondent, who claims to be the owner of the property, had filed a suit in O.S.No.5009 of 2004 before the VI Assistant Judge, City Civil Court, Chennai and the same was decreed in his favour. Against which, the petitioner filed A.S.No.492 of 2009 before the VII Additional Judge, City Civil Court, Chennai, but the same was dismissed and against the dismissal of the appeal, the petitioner has preferred a Second Appeal in S.A.No.162 of 2014 and the same is pending before this Court. He would further submit that the 8th respondent, without following the due process of law, has attempted to evict the petitioner by force and thereby, the petitioner has given a complaint to the 10th respondent. However, since no action was taken on the complaint and the local Inspector is taking sides with the opposite party to evict the petitioner without following due process of law, the petitioner has approached this Court seeking for police protection.



7. Per contra, Mr.J.Sudhakaran, the learned counsel appearing for the petitioner in W.P.No.2572 of 2022 would submit that the petitioner is the original owner of the property and the petitioner and his brother have succeeded before the Trial Court and also before the Appellate Court and hence, in order to defeat the interest of the petitioner/land owner, respondents 3 to 5 had attempted to put up a construction and when the petitioner had attempted to prevent them, the petitioner was brutally assaulted by respondents 3 to 5 and their men and thereby, the petitioner had lodged a complaint and based on his complaint, a case in Crime No.61 of 2022 had been registered against the respondents 3 to 5 and his brothers for the offences under Sections 448, 294 (b), 323 and 506 (ii) IPC. Fearing danger to the life of the petitioner, the petitioner has filed the writ petition seeking police protection.

8. Learned Additional Public Prosecutor appearing for the official respondents would submit that the dispute exists between the parties in respect of the land in Survey Number T.S.No.88/1 at Door No.2/21, First Reddy Street, Ekkattuthangal, Chennai - 600 032. He would submit that since a Civil dispute has escalated to a fight between the parties, the 10th respondent, who is the jurisdictional Inspector, had registered a case based on the complaint given by the petitioner in W.P.No.2575 of 2022. He would submit that though the respondent police will not interfere in the civil disputes, since both parties had entered into a fight creating law and order problem, the 8th respondent/Inspector of Police of the concerned jurisdictional Police Station has to necessarily interfere into the issue to prevent breach of peace and that the respondents have not taken sides with any party. He would further submit that the preliminary enquiry revealed that the petitioner in W.P.No.2200 of 2022, alongwith his brother and another person, is alleged to have assaulted the petitioner in W.P.No.2572 of 2022, in respect of which, a case in Crime No.61 of 2022 has been filed. He would further submit that the Inspector of Police, Guindy is not interfering in the civil dispute.

9. A perusal of the entire materials available on record reveals that though the dispute between the parties is one of civil in nature, it is a case and counter case between the parties and some allegations are made against the local jurisdictional police. Therefore, this Court, without making any observation on the issue and the merits of the case of either party, transfers the investigation to the file of the Assistant Commissioner of Police, Guindy Range, Chennai-32, who shall also enquire into the complaint made by the petitioner in



W.P.No.2572 of 2022 and also the counter complaint of the petitioner in W.P.No.2200 of 2022 and proceed in accordance with law and such enquiry shall be monitored by the Deputy Commissioner of Police, Adyar, Chennai.

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10. With the above direction, the above Writ Petitions are disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

nti/ssi/ssk.

To

1. The Principal Secretary,
Home Department,
Tamil Nadu State,
Fort St. George,
Chennai - 600 009.
2. The Director General of Police,
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Mylapore, Chennai - 600 004.
3. The Commissioner of Police,
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Vepery, Chennai - 600 007.
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J-3, Guindy Industrial Estate Police Station,
Guindy, Chennai 600 032.



7. The Assistant Commissioner of Police,
J3 Police Station,
Guindy, Chennai - 600 032.

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+1cc to Mr.J.Sudhakaran, Advocate, S.R.No.11819

W.P.NOS.2200 AND 2572 OF 2022

SPD (CO)
PBS/12/04/2022