



WP.No.26842 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2022

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

WP.No.26842 of 2013

P.Raju

...petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary, Home Department,
Secretariat, St. George Fort,
Chennai 9.
2. The Superintendent of Police,
Krishnagiri District,
Krishnagiri.
3. The Inspector of Police,
Hosur Town Police Station,
Hosur, Krishnagiri District.
4. Mr.Gnanasekar,
Inspector of Police-Hosur,
Now working as an Inspector of Police,
Palladam Police Station,
Thirupur District.
5. T.Anjappa @ Kannappa
6. A.Murugan
7. A.Sekar
8. Bharathi

...respondents



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Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the 1st respondent to pay compensation to the tune of Rs.41 lakhs [Rupees Fourty One Lakhs only] or such other sum deemed fit for the loss suffered by the petitioner owing to the culpable inaction of the 2nd and 3rd respondent on the petitioner's complaint.

For Petitioner	: Mr.N.Elayaraja
For Respondents	
for RR1 to 3	: Mr.A.Selvendran, Special Government Pleader
for R4	: Service due
for RR5 to 8	: No Appearance

ORDER

This Writ Petition is filed for issuance of a Writ of Mandamus to direct the first respondent to pay compensation to the tune of Rupees Forty One Lakhs for the loss suffered by the petitioner owing to the culpable inaction of the respondents 2 and 3 on the petitioner's complaint.

2. The petitioner states that he was carrying on wood work business in the name and style of M/s.Sri Balaji Wood Works from the year 1993. He also says that he is a tenant under the fifth respondent and the said premises was let out to him on the monthly rent of Rs.1,600/-



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and an advance of Rs.30,000/- was paid to the landlord. It is his further case that 2 more premises were leased out to him by the fifth respondent/landlord and he paid a sum of Rs.1,10,000/- as lease amount for each shop in the year 2004.

3. Subsequently, a dispute arose between the petitioner and the landlord and the petitioner has filed RCOP.No.8, 10 and 11 of 2008 before the Rent Controller to deposit the rent in into the Court and a sum of Rs.96,000/- was deposited towards rent for the shops. The landlord also filed RCOP.Nos.5, 6 and 7 of 2012 on the file of the District Munsif Court, Hosur against the petitioner for eviction on the ground of willful default.

4. It is his further case that during the pendency of the above RCOPs, the fifth respondent along with his family members broke open the shops leased out to the petitioner and removed several materials worth about Rs.16,00,000/-. Subsequently, the petitioner sent a complaint to the Superintendent of Police Krishnagiri on 24.09.2012 and a similar complaint was given to the third respondent against the landlord, but no action has been taken. Therefore, the petitioner has come forward with



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this Writ Petition for issuance of a direction to the first respondent to pay compensation to the tune of Rs.41 lakhs on the ground that the State has failed to protect the petitioner's property and did not take action in response to the complaint given by him.

5. A counter affidavit has been filed by the third respondent stating that on receipt of the complaint from the petitioner, CSR was issued immediately. It is further stated that the petitioner had earlier approached the learned Judicial Magistrate Court No.II, Hosur to register a case against the sixth respondent, who is the son of the fifth respondent and a case has been registered in Crime No.6 of 2013 by the Inspector of Police, Hosur Town Police Station under Sections 457, 380, 294b, 506 (ii) IPC. The details and progress of the criminal complaint are given in the counter affidavit.

6. The contents in the counter affidavit reveals that the investigation is still pending and a counter complaint has also been lodged against the petitioner by the fifth respondent and an FIR was registered in Crime No.848 2008, wherein the petitioner has obtained bail from the Lower Court.



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7. This Court is unable to find any reason to entertain the above Writ Petition. Even if the Police did not take action on the petitioner's complaint, his remedy is elsewhere. However, the petitioner has filed this Writ Petition to pay a compensation in relation to the incident that was alleged to have taken place on 21.05.2012. The complaint is against the petitioner's landlord for removing his materials from the demised premises for causing inconvenience to his business and other acts. The petitioner has civil remedies and to approach the Criminal Court for filing charge sheet.

8. Considering the averments made by the petitioner in the affidavit and the facts stated by the third respondent in his counter affidavit, this Court is of the view that the dispute between the petitioner and the fifth respondent is purely civil in nature. Hence, it is open to the petitioner to approach the appropriate civil forum either for damages or for recovery of the stolen articles, if he could make out a case before the Civil Court. This Court cannot conduct a roving enquiry on the factual aspects and decide whether the petitioner has lost the goods and who is responsible for the loss or the stolen goods.



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9. With the above observations, this Writ Petition is dismissed.

No costs.

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Index : Yes/No
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To

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