



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.06.2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.No.12422 of 2022

Manjula

...Petitioner

Versus

1.The District Superintendent of Police
(Land Grabbing Cell)
Villupuram & District.

2.The Inspector of Police
Mailam Police Station
Villupuram District.

3.Mr.Lakshmi Narayanan

4.Mr.Munusamy

...Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus to direct the 1st and 2nd respondent to take appropriate steps against the 3rd and 4th respondents based on the complaint dated 02.05.2022 and to provide necessary protection to the petitioner's family.

For Petitioner : M/s.P.Vijendran

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

Mr.U.Karunakaran for R3 & R4

O R D E R

This writ petition has been filed to direct the 1st and 2nd respondents to take appropriate steps against the 3rd and 4th respondents based on the complaint dated 02.05.2022 and to provide necessary protection to the petitioner's family.

2. The main grievance of the petitioner is that the petitioner had purchased the land in the year 2007 and due to the paucity of funds, the petitioner and her husband could not



construct the building immediately. However, with the help of the 3rd respondent, who also happened to be a financier, they raised funds by availing loan from LIC Housing Finance Limited and constructed the property. At the time of availing the financial assistance, the property was mortgaged with the LIC. Later, they came to know that the 3rd respondent has executed a sale deed in favour of the 4th respondent and it was duly registered on 08.04.2021. Thereafter, the petitioner and her family were thrown out from the property. Hence, the learned counsel for the petitioner submitted that their dispossession should be restored. In support of his statements, he also relied upon the decision of this Court reported in CDJ 1990 MHC 297 in the case of Mrs.Meena Nireshwalia Vs State of Tamil Nadu and Others and the decision of the Hon'ble Supreme Court reported in (2021) 6 Supreme Court Cases 15 in Uttar Pradesh Power Transmission Corporation Limited and Another Vs. CG Power and Industrial Solutions Limited and Another.

3. Learned counsel for the respondents 3 and 4 denied the dispossession of the petitioner illegally and submitted that the petitioner had sold the property to the 3rd respondent vide registered sale deed dated 30.01.2014 and in turn, the 3rd respondent sold the property to the 4th respondent vide sale deed dated 08.04.2021 and now the Patta is also transferred in the name of the 4th respondent.

4. From the above submissions, this Court can see that the property is now transferred in the name of 4th respondent which is not in dispute. Whether there was any actual dispossession or not, is a matter of fact and that cannot be gone into at this stage while the Court exercising its power under Section 482 of Cr.P.C. It is the allegation of the petitioner that she was dispossessed forcibly by the 3rd and 4th respondent and the 4th respondent asserts that he is in lawful possession after purchasing the property. Whether the 4th respondent is in lawful possession or not is purely a disputed question of fact which cannot be decided while the Court exercising its powers under Section 482 of Cr.P.C. Though much emphasis has been made by the learned counsel for the petitioner, the Judgments relied upon by the learned counsel for the petitioner, are in different context and not applicable to the facts of the present case. If at all the petitioner was really dispossessed illegally from the property, the proper course for her is to file a suit for recovery of possession under Section 6 of Specific Relief Act and not to invoke Section 482 Cr.P.C.

5. This Court has inherent powers to check and balance the powers conferred under Section 482 of Cr.P.C. and not in civil



matters. In such view of the matter, this Court does not find any merit in this case. Accordingly, this Writ Petition is dismissed.

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Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

ksa-2/nr

To

1.The District Superintendent of Police
(Land Grabbing Cell)
Villupuram & District.

2.The Inspector of Police
Mailam Police Station
Villupuram District.

3.The Public Prosecutor
High Court, Madras.

+1cc to Mr.P.Vijendran, Advocate, S.R.No.32746

+1cc to Mr.U.Karunakaran, Advocate, S.R.No.33375

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RSV (CO)
SB(22/06/2022)