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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P. NO. 14458 OF 2021
AND
W.M.P. NO. 17525 OF 2021

S.Aarthi

.. Petitioner

Versus

1. The Secretary
Bar Council of Tamilnadu and Puducherry
Madras High Court Campus
Chennai - 600 104
2. The District Collector
O/o.The District Collector
Tiruvannamalai - 606 601
3. The Superintendent of Police
O/o.the Superintendent of Police
Tiruvannamalai - 606 601
4. The President
Vengikal Panchayat
Vengikal
Tiruvanamalai - 606 601
5. R.K.Balasubramanian

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1st respondent to conduct enquiry and take action against the 5th respondent and punish the 5th respondent for his misconduct, by conducting enquiry in the Complaint No.50 of 2021 of the petitioner and simultaneously direct the 3rd respondent to file its enquiry report conducted in the complaints dated 24.08.2020, 22.05.2021, 31.05.2021 and 11.06.2021 of the petitioner's father and the petitioner.



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For Petitioner : Mr.Murali Krishna
for M/s. Anis Fahima

For Respondents : Mr. C.K. Chandrasekar for R1
Mr.Shahjahan
Special Government Pleader for R2
Mr.S.Sugendran
Additional Public Prosecutor for R3
Mr.Adithya Varadarajan for R5

ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

Heard all the parties and perused the materials placed before this court.

2.The present writ petition has been filed seeking to issue a Writ of Mandamus directing the 1st respondent to conduct enquiry and take action against the 5th respondent for his misconduct, based on the complaint No.50 of 2021 lodged by the petitioner and also directing the 3rd respondent to file enquiry report.

3.According to the petitioner, her father had borrowed money from the fifth respondent, after having given his properties for security by executing necessary agreements. Even after repaying the amount, the fifth respondent did not reconvey the properties and return the documents. Aggrieved by the same, the petitioner's father filed a complaint to the Inspector of Police, Land Grabbing, Tiruvannamalai on 24.08.2020, which was not taken into consideration. Besides this, he also filed a suit in O.S. No. 17 of 2021 seeking declaration and permanent injunction against the fifth respondent and the same is pending. While so, the petitioner's father died on 26.04.2021. Taking advantage of the same, the fifth respondent went to the building owned by the petitioner's father, trespassed into the same and demolished the shops situated in front of the building; and also threatened the petitioner to vacate her premises and hand over the possession to him. In this connection, the petitioner made several complaints to the police on 24.08.2020, 22.05.2021, 31.05.2021 and 11.06.2021 which ended in vain. Therefore, the petitioner is before this court with this writ petition for the aforesaid relief.

4.This court by order dated 16.07.2021, directed the third respondent to appoint an officer not below the rank of Deputy Superintendent of Police, who shall conduct inspection and file a status report.



5. Pursuant to the aforesaid order, the third respondent appointed the Additional Superintendent of Police, Crime against Women and Children, Tiruvannamalai District by order in C.No.G1/13080/34/2021 dated 22.07.2021, who in turn, conducted enquiry and filed his report. Based on the same, the third respondent filed a status report dated 04.08.2021, the relevant paragraphs of which, are usefully extracted below:

"(i) It is submitted that the 5th respondent, R.K.Balasubramaniam and his workers demolished building which was situated in Vengikkal village survey No.180/1A on 22.05.2021, 24.05.2021, 31.05.2021 and 01.06.2021 respectively by obtaining N.O.C from the authority concerned i.e, Village President of Vengikkal Panchayat and Village Administrative Officer of Adaiyur Group.

(ii) It is submitted that the afore said building was registered in the name of the 5th respondent, R.K.Balasubramaniam in document no.6132 dated 27.07.2015 of No.2, Sub Registrar Officer, Tiruvannamalai. Further, the Village Administrative Officer of Adaiyur Group and the Village President of Vengikkal Panchayat had given "No objection certificate" for the demolition. As per the law the above said property is in the possession and enjoyment of the 5th respondent, R.K.Balasubramaniam.

(iii) It is submitted that since the said building was in dilapidated condition the Village Administrative Officer as well as Panchayat President had given approval to demolish it. Accordingly, the said building was demolished based on the said approval as stated supra, on an enquiry it reveals that at that time of demolishing the property, no one was reside in the said building. It is submitted that neither the tenants nor the petitioner were forcefully evicted from the building.

(iv) It is submitted that the Inspector of Police, Tiruvannamalai Taluk PS was received the complaint on 22.05.2021 and assigned the CSR No.535/2021 and the Inspector of Police, Tiruvannamalai Taluk PS immediately proceeding to the occurrence place and nobody was present at that time.

It is also submitted that the petitioner's husband Saravanan stated that he had lodged a complaint on 24.05.2021 against the 5th respondent and his workers who were demolished the building. The Inspector of Police had taken suitable action on the complaint and examined and enquired the both parties and recorded their statement properly.

Also it is kindly submitted that on receipt of



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the complaint dated 31.05.2021 the Inspector of Police, Tiruvannamalai Taluk PS was conducted a detailed enquiry and ascertained that the petitioner is not an absolute owner of the property. Further it is submitted that the petitioner is not produced any document to substantiate her possession.

It is kindly submitted that the petitioner's father Selvaraj lodged a complaint to the Superintendent of Police, Tiruvannamalai on 24.08.2020 and the same was forwarded to the Anti Land Grabbing Special Cell Tiruvannamalai on 25.08.2020. It is further submitted that the police officials of Land Grabbing Cell Tiruvannamalai conducted detailed enquiry and arrived the conclusion that the petition filed by the father of the petitioner is a civil in nature. Hence, the Inspector of Police had given suitable advice to the petitioner's father to approach appropriate court of law for getting remedy and also issued the police notice on 23.12.2020 by registered post with acknowledgment due.

(v) It is kindly submitted that the 5th respondent Tr.R.K.Balasubramaniam is actively practicing as an Advocate on civil side. He is the member of Bar Association of Tiruvannamalai. His enrolment number is 1088/1991. He has no adverse remarks till now.

(vi) It is kindly submitted that the 5th respondent Tr.R.K.Balasubramaniam additionally doing money lending business."

6. In the light of the averments made in the status report filed by the third respondent, this court, without going into the merits of the case, directs the first respondent to conduct enquiry with respect to Complaint No.50 of 2021 lodged by the petitioner and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to all the parties, as expeditiously as possible. A copy of the status report filed by the third respondent, be placed before the first respondent, while passing orders on the complaint of the petitioner.

7. With the above direction, this Writ Petition stands disposed of. Consequently, WMP.No.17525 of 2021 is closed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

dhk

Sub Assistant Registrar



To

1. The Secretary
Bar Council of Tamilnadu and Puducherry
Madras High Court Campus
Chennai - 600 104

2. The District Collector
O/o.The District Collector
Tiruvannamalai - 606 601

3. The Superintendent of Police
O/o.the Superintendent of Police
Tiruvannamalai - 606 601

+lcc to M/s.Mcgan Law Firm, Advocate, S.R.No.22301
+lcc to the Government Pleader, S.R.No.22732

WP No. 14458 of 2021

SR(CO)
PM/06/05/2022