IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2022

CORAM :

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.No.23026 of 2018
and W.M.P.No.26919 of 2018

Dr.R.Sathiamurthy .. Petitioner

Vs.

The District Revenue Officer cum
Additional District Magistrate
Salem. .. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for a writ of Certiorari to call for records of the respondent in proceedings dated 02.07.2018 in O.M.No.13668/2018/C4 and quash the same.

For Petitioner : Mr.C.V.Shyamsundar

For Respondent : Mr.P.Kumaresan
Additional Advocate General
assisted by
Mr.K.Karthick Jagannath
Government Advocate

ORDER

The prayer sought for herein is for a writ of Certiorari to quash the impugned proceedings dated 02.07.2018 in O.M.No.13668/2018/C4 of the respondent.

2. There has been a declaration in favour of the petitioner with regard to the Tamil Daily at Salem, being a Salem Edition and in order to cancel such declaration as publisher made by the authorities concerned under the provisions of Press and Registration of Books Act, 1867, there was a complaint given by the sons of the other partners of the Daily concerned and that complaint having been entertained by the respondent/ District Revenue Officer the same seems to have been forwarded to the Revenue Divisional Officer, Salem as well as the Commissioner of Police, Salem for appropriate action i.e., for conducting an enquiry and to file a report to that effect to the respondent District Revenue Officer, so as to enable him to pass orders with regard to the complaint given by others against the petitioner. Challenging the said letter dated 02.07.2018, requesting the Revenue Divisional Officer concerned to conduct an enquiry and to file a report, the present writ petition has been filed.

3. Mr.C.V.Shyamsundar, learned counsel appearing for the petitioner would point out that, as per the procedure contemplated under the Press and Registration of Books Act, 1867, especially under Section 8(b), an enquiry has to be conducted by the Executive Magistrate

concerned i.e. the District Revenue Officer or his nominee viz., Revenue Divisional Officer and after conducting such an enquiry by giving an opportunity of being heard to the persons against whom such complaint has been given here i.e, the petitioner, then only a conclusion can be arrived at after completing the enquiry. However, in this case, according to the learned counsel for the petitioner, since the communication dated 02.07.2018 has been addressed to both the Commissioner of Police, Salem as well as the Revenue Divisional Officer, Salem, the Commissioner of Police, Salem independently with his force unnecessarily visited the petitioner and his press office and started enquiring the matter and in this regard, according to the learned counsel for the petitioner, the Police Commissionerate do not have a role to play in conducting an enquiry as an Executive Magistrate as contemplated by the Act.

4. The further grievance of the petitioner is that, before forwarding this letter and making an enquiry, which is impermissible by the Police people, no notice has been placed on the petitioner and therefore on these grounds, the petitioner has challenged this impugned order.

5. However, Mr.P.Kumaresan, learned Additional Advocate General appearing for the respondent would submit that, already on 27.06.2018, a notice has been sent by the respondent through RPAD to the petitioner asking him to appear on 09.07.2018, however, he did not turn up. Therefore, it has been forwarded to the Revenue Divisional Officer concerned to conduct an enquiry after giving proper opportunity to the petitioner and to file a report to the respondent, so that, he can take a decision on the complaint given against the petitioner by others. Therefore, the procedure as contemplated under the provisions of the Act, especially under Section 8(b) only, the respondent since has acted, the petitioner cannot have any grievance as he espouse in this writ petition and therefore, learned Additional Advocate General want this matter to be dismissed and leave the matter at rest to proceed further in accordance with law by giving such liberty to the respondent.

6. Insofar as the complaint given against the petitioner is concerned, who is none other than the partners' sons and the learned counsel appearing for the petitioner also since submits that it is a family feud, out of which, since the said complaint has been given, if at all the Revenue people wants to conduct an enquiry under the provisions of the

Act, first they should give notice to the petitioner and others also and after giving proper opportunity of being heard to the petitioner only, such conclusion whatever be made by the respondent in accordance with law and before such an enquiry being conducted, the Police people has been unnecessarily triggered by the respondent, under which, the Police people unnecessarily visited the petitioner as well as his press office and asked questions, for which, according to the petitioner counsel, they do not have any role under the provisions of the Act.

7. In this regard, learned Additional Advocate General submits that the impugned communication also has been forwarded to the Police Commissioner, Salem only for the limited purpose to ascertain that, is there any criminal antecedents, based on which, any criminal case is pending against the petitioner and that would be useful for them to forward to the respondent to arrive at a conclusion on completion of enquiry to be conducted by the Executive Magistrate and therefore, only for the limited purpose, it has been forwarded to the Police Commissioner and not for him to conduct any separate enquiry as alleged by the counsel appearing for the petitioner, he contended.

8. I have considered the rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

9. Insofar as the provisions of the Act under Section 8(b) is concerned, if any such complaint has come under the Act, that has to be looked into and an enquiry shall be conducted by the Executive Magistrate, herein the District Revenue Officer or his nominee i.e. the Revenue Divisional Officer and on receipt of the complaint, one attempt has been made by the respondent by sending notice on 27.06.2018, however, that has been denied by the petitioner that he has not received any such notice. Be that as it may. Now, the impugned communication dated 02.07.2018 is only forwarding the complaint with the connected documents to the Revenue Divisional Officer concerned to conduct an enquiry by giving proper opportunity to the petitioner and others and to file a report to the respondent, therefore, that process need not be hindered, but, at the same time, the role of the Police Commissioner is concerned, it is nothing but ascertaining the Police cases, if any, which are filed or pending against the petitioner and in this regard, that can be ascertained by the Police Commissioner only from the concerned

jurisdictional Police and accordingly, if he wants to give an independent report, he can do the same, for which, the petitioner need not be unnecessarily harassed.

10. So far as the conducting of enquiry by the Executive Magistrate is concerned, as contemplated under the provisions of the Act, such an enquiry as directed by the respondents through his communication dated 02.07.2018 can go on and after completing the enquiry by giving proper opportunity of being heard to the petitioner and others, such enquiry report shall be submitted by the Revenue Divisional Officer concerned to the respondent District Revenue Officer within a period of sixty days from the date of receipt of a copy of this order and on receipt of the same, the respondent can ultimately pass a final order under Section 8 (b) of the Act within a period of four weeks thereafter.

11. In this regard, if any further input is required by the respondent after getting the report from the Revenue Divisional Officer, further opportunity can also be given to the petitioner as well as the complainant and after ascertaining or receiving such further input, the final order as indicated above can be passed.

R.SURESH KUMAR,J.

(drm/mp)

With these directions, this writ petition is disposed of. No Costs. Connected miscellaneous petition is also closed.

26.09.2022

Index:Yes/No
drm/mp

To

1. The District Revenue Officer cum
   Additional District Magistrate
   Salem.

W.P.No.23026 of 2018