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W.P.No.33296 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.33296 of 2014

Dr.S.S.Manikandan

... Petitioner

Vs

1.The Commissioner of Police,
Vepery, Chennai – 600 007.

2.The Deputy Commissioner of Police,
Adyar, Chennai.

3.The Inspector of Police,
Neelankarai Police Station,
Chennai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the third respondent to return the keys of petitioner's property at Old Survey No.76/1 and New Survey No.76/4, in Patta No.4319, MGR Salai, 6th Cross Road, Neelankarai Village, Sholinganallur Taluk, Kancheepuram District and restore peaceful possession and render adequate protection.



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For Petitioner : No Appearance
For Respondents : Mrs.P.Rajarajeswari
Government Advocate

ORDER

This writ petition has been filed for a mandamus to direct the third respondent to return the keys of petitioner's property at Old Survey No.76/1 and New Survey No.76/4, in Patta No.4319, MGR Salai, 6th Cross Road, Neelankarai Village, Sholinganallur Taluk, Kancheepuram District and to restore peaceful possession and render adequate protection.

2.The facts on record indicates that the petitioner claims to be the owner of the land which was purchased by the petitioner's father during his life time in 1983 vide registered as document No.1404 of 1983 from one Saraswathi Ammal.

3.It is the further case of the petitioner that the petitioner's father was in possession and enjoyment of the said property till his death on 20.12.1997 and thereafter the petitioner along with the other legal heirs were in peaceful possession and enjoyment of the property.



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4. It is the further case of the petitioner that out of total extent of land purchased by the petitioner's father in the year 1983, the petitioner's brother and sisters have sold the said property admeasuring to an extent of 9762 sq.ft of land to various persons, while the balance part of the property was retained by the petitioner and to that effect vide release deed dated 18.07.2008 vide document No. 3947 of 2008 was executed before SRO, Neelangarai, Chennai. It appears that the petitioner had also put up a construction in the aforesaid land. However, private parties have tried to engage on the same and therefore the petitioner has filed a Civil Suit in O.S.No.952 of 2014 before the Alandur District Munsif Court for an injunction to refrain or interfere with the peaceful possession and enjoyment of the property. The cause of action for filing this writ petition appears to be an alleged attempt of anti-social elements to trespass into the property, and an illegal attempt by unscrupulous elements to gain entry into the said property and that the petitioner had preferred a criminal complaint on 26.11.2014 before the Director General of Police, the Commissioner of Police vide RPAD Post on 27.11.2014 before the third respondent.



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5.It is further stated that the petitioner and petitioner's staff were thrown away from the premises, and therefore the complaint has been given before the third respondent. However, the third respondent took away the keys of a property. Hence, the writ petition has been filed.

6.The third respondent in his counter has stated that there are disputed question of facts as to whether who is the owner of the property. It is further submitted that there is a counter complaint filed by Thiru.Arul against him. The petitioner had filed a complaint and there is a rival complaints which were filed by the petitioner and each others. It is further submitted that the keys were not taken by the third respondent.

7.Considering the fact that there are several disputed question of fact as to whether who is the actual owner of the property, I am of the view the writ petition for a mandamus to direct the third respondent to return the keys to the petitioner in respect of property in Old Survey No.76/1 and New Survey No.76/4 in Patta No.4319 does not arise. In case, the petitioner wants to establish any right over the property, it is for the petitioner to approach the civil court for appropriate relief. In case, the keys which is said to have been taken



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by the third respondent, it shall be handed over to the Court that is concerned with the dispute between the petitioner and third party. The rights of the parties over the property shall be determined the aforesaid proceedings.

8.This Writ Petition stands disposed of with the above observations. No costs.

29.11.2022

Index: Yes/ No
Internet : Yes/No
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To

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C. SARAVANAN, J.

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