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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 06.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.No.8143 to 8145 of 2017 and
W.M.P.Nos. 8927 to 8929 of 2017

W.P. No.8143 of 2017

1.V.Murugan
2.M.Venkatesan
3.Gantha Eshwari @ Gandheeswari
4.M.Sarala
5.E.Balaji

. . . Petitioners

Versus

1.The State of Tamil Nadu,
rep. by Secretary to Government,
Home Department, Fort St.George,
Chennai-600 009.

2.The District Collector,
Kanchipuram, kanchipuram District.

3.The Tahsildar,
Thiruporur, Kanchipuram District.

4.The Director General of Police,
Mylapore, Chennai 600 004.

5.The Superintendent of Police,
Kanchipuram, Kanchipuram District.

6.The Inspector of Police,
E-9, Thazhambur Police Station,
Kanchipuram District.

7.The Sub-Inspector of Police,
E-9, Thazhambur Police Station,
Kanchipuram District.

8.Mr.Ganapathy,
Inspector of Police (In Charge),
E.9, Thazhambur Police Station,
Kanchipuram District.



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9.R.Chandrasekar,
Sub-Inspector of Police,
E.9, Thazhambur Police Station,
Kanchipuram District.

10.A.Velmurugan,
Sub-Inspector of Police,
E.9, Thazhambur Police Station,
Kanchipuram District.

11.Shaik Abdul quddus,
Sub-Inspector of Police,
E.9, Thazhambur Police Station,
Kanchipuram District.

12.M/s. XS Real Properties Pvt.Limited,
No.12, South Mada Street,
Srinagar colony,
Saidapet, Chennai 600 015
represented by its director

13.M/s.Jacaranda Properties Pvt. Ltd
No.12, South Mada Street,
Srinagar Colony,
Saidapet, Chennai 600 015
represented by its Director

. . . Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing an enquiry by a special team to enquire into the circumstances in which F.I.R.No.487 of 2016, dated 28.12.2016 and FIR No.61 of 2017, dated 12.02.2017, on the file of the Thalambur Police Station 7th respondent herein, registered against the petitioners and to initiate prosecution against respondents 8 to 13 for registering false F.I.R.No.61 of 2017, dated 12.02.2017, on the file of Thalambur Police Station 7th respondent herein.

W.P. No.8144 of 2017

1.V.Murugan
2.M.Venkatesan
3.Gantha Eshwari @ Gandheeswari
4.M.Sarala
5.E.Balaji

. . . Petitioners

Versus

1.The State of Tamil Nadu,
rep. by Secretary to Government,
Home Department, Fort St.George,
Chennai-600 009.



2.The District Collector,
Kanchipuram, Kanchipuram District.

3.The Tahsildar,
Thiruporur, Kanchipuram District.

4.The Director General of Police,
Mylapore, Chennai 600 004.

5.The Superintendent of Police,
Kanchipuram, Kanchipuram District.

6.The Inspector of Police,
E-9, Thazhambur Police Station,
Kanchipuram District.

7.The Sub-Inspector of Police,
E-9, Thazhambur Police Station,
Kanchipuram District.

8.R.Chandrasekar,
Sub-Inspector of Police,
E.9, Thazhambur Police Station,
Kanchipuram District.

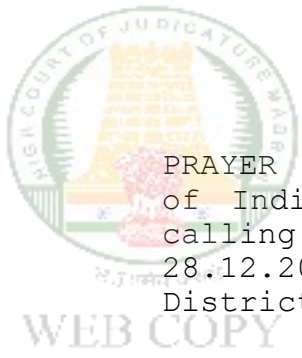
9.Shaik Abdul quddus,
Sub-Inspector of Police,
E.9, Thazhambur Police Station,
Kanchipuram District.

10.M/s. XS Real Properties Pvt.Limited,
No.12, South Mada Street,
Srinagar colony,
Saidapet, Chennai 600 015
represented by its director

11.M/s.Jacaranda Properties Pvt. Ltd
No.12, South Mada Street,
Srinagar Colony,
Saidapet, Chennai 600 015
represented by its Director

12.M/s.Jayashree Venketraman
Vice President and business leader
M/s.Jacaranda Properties Pvt. Ltd
No.12, South Mada Street,
Srinagar Colony,
Saidapet, Chennai 600 015

. . . Respondents



PRAYER : Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari directing to calling for records relating to the F.I.R.No.487 of 2016, dated 28.12.2016, on the file of Thalambur Police Station, Kanchipuram District, 7th respondent herein and quash the same.

W.P. No.8145 of 2017

1.V.Murugan
2.M.Venkatesan

. . . Petitioners

Versus

1.The State of Tamil Nadu,
rep. by Secretary to Government,
Home Department, Fort St.George,
Chennai-600 009.

2.The District Collector,
Kanchipuram, kanchipuram District.

3.The Tahsildar,
Thiruporur, Kanchipuram District.

4.The Director General of Police,
Mylapore, Chennai 600 004.

5.The Superintendent of Police,
Kanchipuram, Kanchipuram District.

6.The Inspector of Police,
E-9, Thazhambur Police Station,
Kanchipuram District.

7.The Sub-Inspector of Police,
E-9, Thazhambur Police Station,
Kanchipuram District.

8.Ganapathy,
Inspector of Police (In Charge),
E.9, Thazhambur Police Station,
Kanchipuram District.

9.A.Velmurugan
Sub-Inspector of Police,
E.9, Thazhambur Police Station,
Kanchipuram District.



10. Shaik Abdul quddus,
Sub-Inspector of Police,
E.9, Thazhambur Police Station,
Kanchipuram District.

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11. M/s. XS Real Properties Pvt. Limited,
No.12, South Mada Street,
Srinagar colony,
Saidapet, Chennai 600 015
represented by its director

12. M/s. Jacaranda Properties Pvt. Ltd
No.12, South Mada Street,
Srinagar Colony,
Saidapet, Chennai 600 015
represented by its Director

13. A. Senthil Kumar
S/o. A.K. Alagarsamy
Administrative Manager
XS Real Properties Pvt. Limited
No.12, South Mada Street
Srinagar Colony
Saidapet, Chennai - 600 015

. . . Respondents

PRAYER in W.P.No8145 of 2017: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari directing to calling for records relating to the F.I.R.No.61 of 2017, dated 12.02.2017, on the file of Thalambur Police Station, Kanchipuram District, 7th respondent herein and quash the same.

For Petitioners : Mr.V.Selvaraj
(In all Writ Petitions) for M/s.Devadasan and Sagar

For Respondents : Mr.R.Kishore Kumar
Government Advocate for R1 to R11
in W.P. Nos.8143 & 8145/2017 and
R1 to R9 in W.P. No.81448145/2017

: Mr.Shivakumar
for M/s.Shivakumar & Suresh
for R12 and R13 in W.P. Nos.8143
& 8145/2017 and R10 to 12 in
W.P. No.8144/2017



COMMON ORDER

These Writ Petitions are heard through Video-Conferencing, on account of the COVID-19 pandemic situation.

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2. W.P. No.8143 of 2017 is for directing an enquiry by a Special team to enquire into the circumstances in which F.I.R. No.487 of 2016 dated 28.12.2016 and F.I.R. No.61 of 2017 dated 12.02.2017 on the file of Thalambur Police Station, registered against the petitioners and to initiate prosecution against the respondents. W.P. No.8145 and 8147 of 2017 have been filed to quash the first information reports filed against the petitioners in Thalambur Police Station in F.I.R.No.487 of 2016, dated 28.12.2016 and FIR No.61 of 2017, dated 12.02.2017.

3. The crux of the final report in FIR No.61 of 2017 is that the second accused/second petitioner has thrown a stone from his land to the balcony of the flats, where the de facto complainant is doing his work and caused damages and besides that he has also made a threat, thereby, committed an offence under Sections 294(b), 427, 447, 506(i) IPC and 3(1) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act and the allegation in the other FIR in Crime No.487 of 2016 is that the accused have originally agreed to sell their property to the de facto complainant in Survey Nos.148/1, 149/2B, 148/2 and 181/3. Accordingly, when the sale deed was prepared and the registration is about to be completed, the accused did not come to the Sub Registrar office, wherein they have demanded exorbitant amount as sale consideration. Thereafter, the company had identified other lands for purchase. Subsequently, the company purchased 15 Acres of adjacent lands as per G.O. Ms. No.287 dated 08.07.2004 issued by Housing and Urban Development (UD 4.2) Department. After the purchase, when the de facto complainant has started construction of the building, the accused have frequently trespassed into de facto complainant's land on 23.05.2015, 27.05.2015, 30.05.2015 and 02.06.2015 and also caused lots of nuisance to the construction activities, thereby, committed an offence under Sections 147, 447, 294(b), 506(1) IPC and 3(1) of TNPPDL Act.

4. The other writ petition is filed for a direction to the authority to take action against the respondents.

5. The main contention of the learned counsel appearing for the petitioners in all these writ petitions, is that originally the District Collector as Honourable Member has passed an order as against the respondents to restore the water canal to the petitioner. Agitated over the same, a writ petition came to be filed, which was also dismissed. Thereafter, a false case has been filed. Whereas, the learned counsel appearing for the de



facto complainant would submit that complaints have been filed since, the accused were not happy with the purchase of adjacent lands by the de facto complainant, created problems and started to trespass into the property purchased by the de facto complainant. It is his contention that, if the accused are giving an undertaking not to trespass the property and create any nuisance, he is not interested to proceed with the case.

6. As rightly pointed out by the learned counsel appearing for the de facto complainant, there is no dispute with regard to the purchase of the adjacent lands by the de facto complainant. The crux of the allegation in both the First Information reports indicate that there was some grievance between the accused and the de facto complainant over not registering the sale deed to the de facto complainant. Thereafter, it appears that the adjacent lands have been purchased by the de facto complainant. One of the complaints was lodged on 28.12.2016 for the alleged occurrence, which said to have taken place on 06.03.2015 and the other allegation is to the effect that the window panel was broken by the accused. Except the above said allegations, there is no serious allegation against the accused.

7. It is also to be noted that the Revenue authorities have passed an order directing the de facto complainant to restore the water canal to the petitioner, which appears to have been destroyed, while putting up construction, namely the flats, which triggered the dispute between them. As the entire dispute appears to be with regard to purchase of lands, there is no other serious allegation attributed against the accused. The accused have also admitted before this Court that they will not make any nuisance or trespass in to the property of the de facto complainant. On such undertaking tendered before this Court, the de facto complainant has submitted that he will not proceed with the case. In such view of the matter continuing the investigation will not serve any purpose. Accordingly, both the First Information Reports are quashed and it is made clear that the accused, hereafter, shall not, make any nuisance or trespass into the property of the de facto complainant, which he has purchased. In such view of the matter, both the First Information Reports are quashed on the ground that the de facto complainant is not proceeding further with the complaints. In such view of the matter, the writ petition filed to take against the respondents does not arise at all. Accordingly, the same is dismissed. In case any cognizable offence is committed by the accused hereafter, it is very well open to the de facto complainant herein to set the Law in motion, as per Law.

8. Accordingly, W.P. No.8143 of 2017 is dismissed. W.P. Nos.8144 and 8145 of 2017 are allowed and FIR Nos.487 of 2016 dated 28.12.2016 and 61 of 2017 dated 12.02.2017 on the file of



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Thalambur Police Station, are quashed. Consequently, connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

psa/asr

To

1.The Secretary to Government,
State of Tamil Nadu,
Home Department, Fort St.George,
Chennai-600 009.

2.The District Collector,
Kanchipuram, Kanchipuram District.

3.The Tahsildar,
Thiruporur, Kanchipuram District.

4.The Director General of Police,
Mylapore, Chennai 600 004.

5.The Superintendent of Police,
Kanchipuram, Kanchipuram District.

6.The Inspector of Police,
E-9, Thazhambur Police Station,
Kanchipuram District.

7.The Sub-Inspector of Police,
E9, Thazhambur Police Station,
Kanchipuram District.

8.The Public Prosecutor,
High Court, Madras.

+3cc to Mr.Devadason & Sagar, Advocate, S.R.No.1272 to 1274

W.P.Nos.8143 to 8145 of 2017

GPL (CO)
SB(11/02/2022)