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W.P.No.31887 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2022

CORAM :

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

W.P.No.31887 of 2022

and

W.M.P No.31333 of 2022

A.Kannan

... Petitioner

Vs

- 1.The State of Tamilnadu
Rep. by the Commissioner of Police
Avadi City
No.44C5/85H, M.T.H Road
Avadi, Chennai-600 054.
- 2.The Assistant Commissioner of Police
13/31, James Street
Muthukumaran Nagar
Poonamallee
Chennai-600 054.
- 3.The Inspector of Police
T-12, Poonamallee Police Station
Poonamallee
Chennai-600 054.
- 4.M/s.J-Kaisen Solutions Private Limited
rep. by its Managing Director
P.Johnson Antony Raj
No.3/9, Sridharan Street
Ayyavoo Colony
Aminjikarai
Chennai-600 029.
- 5.P.Johnson Antony Raj

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Mandamus, directing the 1st to 3rd respondents herein to take appropriate legal action on the complaint made by the petitioner on various occasions particularly on 15.10.2022 thereby giving necessary police protection in order to implement the civil court's decree passed in RLTOP No.43/2020 dated 29.04.2022 for eviction of 4th and 5th respondents on the file of Principal District Munsif Court, Poonamallee with regard to the property bearing Flat No.3, 10th Floor, (610/3) of 1116 Square feet, Apartment Tower-6, Golden Opulence, P.H Road, NH-4, Poonamallee, Chennai-600 056.

For Petitioner : Mr.J.Selvarajan

For Respondents : Mr.S.Santhosh for R1 to R3
Government Advocate (Crl.side)

ORDER

The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the 1st to 3rd respondents herein to take appropriate legal action on the complaint made by the petitioner on various occasions particularly on 15.10.2022 thereby giving necessary police protection in order to implement the civil court's decree passed in RLTOP No.43/2020 dated 29.04.2022 for eviction of 4th and 5th



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respondents on the file of Principal District Munsif Court, Poonamallee with regard to the property bearing Flat No.3, 10th Floor, (610/3) of 1116 Square feet, Apartment Tower-6, Golden Opulence, P.H Road, NH-4, Poonamallee, Chennai-600 056.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondents 1 to 3.

3. The learned counsel for the petitioner submitted that the petitioner is the landlord of the subject matter of the premises bearing Flat No.3, 10th Floor, Apartment Tower-6, Golden Opulence, P.H Road, NH-4, Poonamallee, Chennai-600 056 and he has filed an eviction petition against the 4th and 5th respondents for eviction; despite he had obtained a decree, the 4th and 5th respondents refused to vacate the premises by obeying the decree of the court; hence the petitioner had given a representation to the 3rd respondent police to vacate the respondents 4 and 5 from the premises in obedience of the order of the learned Principal District Munsif, Poonamallee dated 29.04.2022 made in RLTOP No.43 of 2020.



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4. The learned counsel for the petitioner further submitted that if there is any order of the court and if police protection is sought for to implement the order of the court, the police has to readily give protection without waiting for a direction to provide police protection.

5. But here is a case, where the petitioner seeks the interference of the 3rd respondent to execute the order of the court by way of vacating the private respondents from the premises. The rightful course would be to file an execution petition to execute the order and during that course, if the situation warrants for police protection, it would be ideal to direct the 3rd respondent to provide police protection. The petitioner had bypassed the execution proceedings and directly approached the police to do the job of the executing court.

6. The learned counsel for the petitioner cited the judgment of this Court made in **Radhika Sri Hari and another v. Commissioner of Police** reported in **2014 (2) CTC 695**. In the said case, it is observed as under:



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"11. When police protection is sought for the implementation of a civil court order it should be given readily. Police should not insist on a specific court direction to give police protection."

7. By making reference to the above observation, it is submitted by the learned counsel for the petitioner that even when the proceedings had filed for execution, the petitioner can directly seek a direction for police protection. The observation is that the case has to be seen in the context of its own facts and circumstances. Since the petitioner had bypassed the well established execution proceedings, he is at liberty to file execution proceedings for delivery.

8. With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/ No
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- 4.The Public Prosecutor
High Court of Madras.



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