



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2022

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WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.698 of 2022

S.Suseela

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Sivagangai Division,
District Collectorate,
Sivagangai.

2.The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.

3.Maheshwaran

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 1st respondent to initiate proceedings against 3rd respondent under Section 145 of CrPC and to restore the petitioner's possession at D.No.3/31, Vaigai Vadakarai, Madapuram Panchayat, Thiruppuvanam Taluk, Sivagangai District by invoking Section 145(4) of CrPC within the time frame stipulated by this Court.

For Petitioner : Mr.N.Ananthapadmanabhan
For M/s.APN Law Associates.
For Respondents : Mr.M.Sakthi Kumar,
Govt. Advocate (Cr1. Side)
for R1 & R2.

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate (Cr1. Side) for respondents 1 and 2.

2.The petitioner alleges that she had been coercively dispossessed and that all her articles have been thrown out by none other than her own brother, who has been shown as the third respondent. The petitioner wants this Court to direct the first respondent to invoke his powers under Section 145 of CrPC. Such prayer in my view is clearly misconceived. Section 145 of CrPC can be invoked only if the Executive Magistrate is subjectively satisfied that there is a possibility of breach of peace. This Court cannot issue mandamus in such cases. However, the complaint



given by the petitioner appears to constitute commission of cognizable offences. If the petitioner's articles have been removed or moved without her consent by the third respondent that would definitely amount to an offence under Section 380 of IPC. The petitioner is directed to place appropriate materials before the second respondent. The second respondent shall hold an enquiry in the matter. The so-called letter said to have given by the petitioner that she will workout her rights before the civil Court shall be ignored. I am giving such a direction because the petitioner's counsel states that such a letter was not given on her own volition. If based on the materials given by the petitioner, the second respondent is satisfied that commission cognizable offence was committed, then an FIR shall be registered and appropriate action taken as per law.

3.The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Revenue Divisional Officer,
Sivagangai Division,
District Collectorate,
Sivagangai.
- 2.The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



+1 CC to M/s.APN LAW ASSOCIATES, Advocate (SR-2099[F] dated
21/01/2022)

W.P (MD) No.698 of 2022
19.01.2022

PS (CO)

KB(08.02.2022) 3P 5C