



W.P.(MD)Nos.24891 and 25402 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2022

CORAM

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

W.P.(MD)Nos.24891 and 25402 of 2022

and

W.M.P.(MD)Nos.18992, 18994 and 18995 of 2022

W.P.(MD)No.24891 of 2022:-

P.Pitchy

... Petitioner

Vs.

- 1.The Inspector General of Police,
South Zone,
O/o of the Inspector General of Police,
Race Course Colony, Madurai-625 002.
- 2.The District Collector,
Kanyakumari District.
- 3.The Superintendant of Police,
Kanyakumari District.
- 4.The Deputy Superintendant of Police,
Thuckalay, Kanyakumari District.
- 5.The Inspector of Police,
Marthandam PS, Kanyakumari District.
- 6.D.N.Hari Kiran Prasad, I.P.S.,
Superintendant of Police,
Kanyakumari District.
- 7.T.H.Ganesh
Deputy Superintendant of Police,
Thuckalay, Kanyakumari District.



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8.Senthil Kumar,
Inspector of Police,
Marthandam Police Station, Kanyakumari District.

9.C.Gomathy

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the impugned order passed by the third Respondent under C.No.G1/28546/2022, dated 27.10.2022 and consequently, to direct the Respondents to restore the possession of the Petitioner's property under S.No.543/5B, 1495, 1496 and 1498 and further, to direct the Respondent Police to return the movables taken from the Petitioner's dwelling.

For Petitioner	:Mr.K.R.Laxman
For R1 to R5	:Mr.R.Meenakshi Sundaram Additional Public Prosecutor
For R9	:Mr.R.Samidurai

W.P.(MD)No.25402 of 2022:-

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... Petitioner

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4.The Deputy Superintendant of Police,
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5.The Inspector of Police,
Marthandam PS, Kanyakumari District.

6.D.N.Hari Kiran Prasad, I.P.S.,
Superintendant of Police,
Kanyakumari District.

7.T.H.Ganesh
Deputy Superintendant of Police,
Thuckalay, Kanyakumari District.

8.Senthil Kumar,
Inspector of Police,
Marthandam Police Station, Kanyakumari District.

9.C.Gomathy

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the Respondents 3 to 5, not to harass the Petitioner by interfering into the Civil Dispute by performing Katat Panchayat on the basis of the representation of the 9th Respondent and not to insist the Petitioner to evict from her property by violating the due process of law without any decree from any competent civil Court in favour of the 9th Respondent.

For Petitioner :Mr.K.R.Laxman

For R1 to R5 :Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

For R9 :Mr.R.Samidurai



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COMMON ORDER

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W.P.(MD)No.24891 of 2022 had been filed seeking for a Writ of Certiorarified Mandamus, to quash the impugned order passed by the third Respondent dated 27.10.2022 and consequently, to direct the Respondents to restore the possession of the Petitioner's property under S.No.543/5B, 1495, 1496 and 1498 and further, to direct the Respondent Police to return the movables taken from the Petitioner's dwelling.

2.W.P.(MD)No.25402 of 2022 had been filed seeking for a Writ of Mandamus, to direct the Respondents 3 to 5, not to harass the Petitioner by interfering into the civil dispute by performing Katta Panchayat on the basis of the representation of the ninth Respondent and not to insist the Petitioner to vacate her property by violating the due process of law without any decree from any competent civil Court in favour of the 9th Respondent.

3.It is the submission of the learned Counsel for the Petitioner that on the strength of the order passed by this Court in CrI.O.P.(MD)No. 12047 of 2022, in which, this Court had passed orders directed to consider the representation of the ninth Respondent therein. Based on which, the Superintendant of Police, Kanniyakumari, had passed proceedings, as though there is an execution of warrant of delivery and



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had directed the Inspector of Police, Marthandam Police Station, to provide Police protection to the Petitioner, C.Gomathy wife of Selvadhas, for execution of warrant of delivery at S.No.543/5B, Pacode Village, and further, instructed the Deputy Superintendant of Police, Thuckalay, to provide one Inspector, one Sub Inspector, one Police Constable (Male) and one Police Constable (Female) from his Sub Division on 28.10.2022 for the bandobust duty to the Senior Bailif for the execution of warrant of delivery at S.No.543/5B of Pacode village.

4.The learned Additional Public Prosecutor submitted that there was a direction, as per the order in CrI.O.P.(MD)No.12047 of 2022, to the Superintendant of Police, Kanniyakumari District, the Deputy Superintendant of Police, Thuckalay, the Inspector of Police, Marthandam Police Station. Therefore, there is nothing wrong in the proceedings of the Superintendent of Police, Kanniyakumari District directing his subordinates to provide Police protection. Further, the learned Additional Public Prosecutor invited the attention of this Court to the details of the orders passed in CrI.O.P.(MD)No.12047 of 2022, where, the learned Single Judge in detail discussed the origin of the case originating from the Original Suit in O.S.No.14 of 1980 and the appeal dismissed in A.S.No.82 of 1981 by the learned Principal District Judge, Kanniyakumari, against which, a Second Appeal had been filed in S.A.No.1134 of 1996,



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which was dismissed by this Court. The learned Additional Public Prosecutor further submitted that the direction issued by the learned Single Judge of this Court in CrI.O.P.(MD)No.12047 of 2022 was carried out by the Superintendant of Police in his proceedings.

5.The learned Counsel for the ninth Respondent submitted that the suit filed by the Petitioner herein was dismissed upto the stage of Second Appeal and the judgment of the Trial Court in O.S.No.14 of 1980 was confirmed upto the second Appeal against which, the Petitioner herein had not agitated by way of filing further appeal before the Honourable Supreme Court. While so, the learned Counsel for the ninth Respondent invited the attention of this Court to the judgment of this Court in the Second Appeal in S.A.No.1134 of 1996, wherein, it is clearly stated that already partition was decreed and based on the partition in 1960, the parties are in possession of the properties. Therefore, the suit filed by the Petitioner herein in O.S.No.14 of 1980, was misconceived.

6.It is further pointed out that after exhausting the remedies available to the Petitioner herein, the ninth Respondent, who is aged 76 years, wanted to protect her possession. Therefore, she had sought orders from this Court by exercising inherent powers of the High Court under Section 482 of Cr.P.C., based on which, the learned Single Judge



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had passed an order in her favour. Further, the learned Counsel for the ninth Respondent submitted that the Petitioner, having been a party to the Proceedings in Crl.O.P.(MD)No.12047 of 2022, subsequent to the order passed by this Court, had trespassed into the property of the ninth Respondent and damaged the CCTV and compound wall resulting in registration of two FIRs in Cr.Nos.463 and 490 of 2022.

7.Also, the learned Counsel for the ninth Respondent submitted that the Petitioner herein, who had filed the suit in O.S.No.14 of 1980 and could not succeed upto the Second Appeal, had not agitated her right by filing further appeal before the Honourable Supreme Court, and had disobeyed the orders of this Court by trespassing into the property, which is in possession of the ninth Respondent and causing damage to the CCTV and compound wall. Therefore, the order already passed by this Court was violated, which resulted in filing of the two cases, in which the Petitioner herein is arrayed as an accused and she had approached the High Court for anticipatory bail and was granted anticipatory bail on condition that the Petitioner shall deposit a sum of Rs.75,000/-.

8.Considering the submission of the learned Counsel for the Petitioner, the learned Additional Public Prosecutor and the learned Counsel for the ninth Respondent, the action of the Respondents 3 to 5



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cannot be found faulted. One of the objection by the learned Counsel for the Petitioner is with regard to execution Petition. Whether Senior Bailif was present or it was a typographical error of the staff of the Superintendant of Police. It is for the Superintendant of Police to clarify. On considering the rival contention, the Writ Petition in W.P.(MD)No.24891 of 2022 is misconceived and hence, dismissed.

9.In view of the order passed by this Court in W.P.(MD)No.24891 of 2022, W.P.(MD)No.25402 of 2022 is also dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

15.11.2022

Index : Yes / No

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Note: Issue order copy by **17.11.2022**



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- 5.The Inspector of Police,
Marthandam PS, Kanyakumari District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP

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