



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2022

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD) .No.26415 of 2019

and

W.M.P. (MD) Nos.22822 and 22824 of 2019

M.Jaffar Ali

... Petitioner

-Vs-

1.The Revenue Divisional Officer cum
Executive Magistrate,
Trichy,
Trichy District.

2.The Inspector of Police,
Trichy City Police Station,
Trichy District.
(In Crime No.668 of 2018).

... Respondents

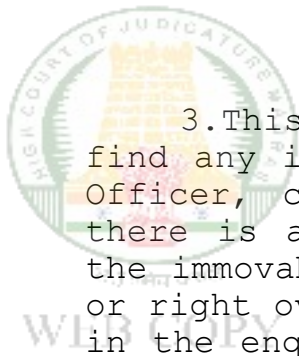
PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned FIR in Crime No.668 of 2018 dated 03.12.2018 registered on the file of the second respondent police and the impugned proceedings of the first respondent in Na.Ka.No.A1/4417/2018 dated 14.11.2019 and quash the same as illegal.

For Petitioner : Mr.M.Mahaboob Athiff
for M/s.Ajmal Associates.
For Respondents : Mr.P.Kottaichamy
Government Advocate

O R D E R

Regarding a vacant land in Trichy Town, there was two groups, claiming right and therefore pursuant to the complaint registered in Crime No.668 of 2018 by the second respondent police, the first respondent has caused notice to both the parties under Section 145 of Cr.P.C to participate in the enquiry.

2.Being aggrieved by the proceedings, initiated by the first respondent, the present writ petition is filed on the ground that the property in dispute has already been recorded as Wakf property and therefore the claim of the rival group is baseless and it is not an issue to register complaint under Section 154 of Cr.P.C., and thereafter to proceed under Section 145 of Cr.P.C. Hence the order of the Executive Magistrate, summoning the parties, to participate in the enquiry is bad in law.



3. This Court on considering the facts of the case, does not find any illegality in the notice issued by the Revenue Divisional Officer, calling the parties to participate in the enquiry where there is a disturbance to the public peace regarding enjoyment of the immovable property. If the petitioner is really have any claim or right over the property, it is always open to them to participate in the enquiry and place the records before the Revenue Divisional Officer to fortify their claim.

4. Filing a Writ Petition and refusing to participate in the enquiry will only aggravate the law and order problem. Moreso, particularly when the sparing parties belong to two different communities, the Executive Magistrate has every right to cause notice in exercise of power under Section 145 Cr.P.C., and same cannot be faulted. Hence this Court finds no merit in this Writ Petition.

5. As a result, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (As)

// 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 cum
Executive Magistrate, Trichy, Trichy District.

2. The Inspector of Police,
Trichy City Police Station, Trichy District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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