



WEB COPY



Writ Petition No.392 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.392 of 2023

Fathima

W/o.Rahmadulla

... Petitioner

Vs.

1.The Special Secretary (Revenue) and
District Collector,
1st Floor, New Revenue Office Building,
Valuthavur Road, Pettaiyan Chatram,
Puducherry - 605 009.

2.The Director General of Police,
No.4, Thomas Road,
Puducherry - 605 008.

3.The Commissioner of Police (North),
1st Floor, New Revenue Office Building,
Valuthavur Road, Pettaiyan Chatram,
Puducherry - 605 009.

4.The Superintendent of Police (North),
Police Complex, Mettupalayam,
Puducherry.

5.The Inspector of Police (SHO),
Lawspet Police Station,
Puducherry - 605 008.

6.Shakila
W/o.Liyakathali

... Respondents



Writ Petition No.392 of 2023

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 5 to consider the petitioner's representation dated 22.11.2022 and put back in possession of the house at No.65, 1st Cross, Sankaradass Swamigal Nagar, Lawspet Puducherry - 605 008.

For Petitioner : Mr.V.V.Sairam

For Respondents : Mr.M.V.Ramachandramurthy
Additional Public Prosecutor (P)
assisted by Mr.M.Thamizhmani,
Government Advocate (P) [R1 to R5]
Mr.U.Yuvaraj [R6]

ORDER

This Writ Petition has been filed for a direction to the respondent police to consider the representation made by the petitioner on 22.11.2022 and to put back the petitioner and her husband in possession of the property.

2. When the matter came up for admission on 09.08.2023, this Court passed the following order:

"Learned Public Prosecutor (P) appearing for respondents 1 to 5 submitted that the representation given by the petitioner is pending.



2. Considering the fact that the senior citizens viz., the father-in-law and mother-in-law of the sixth respondent have been sent out of the residential home based on the residence order obtained by the sixth respondent, there shall be a direction to the fifth respondent to call the parties for enquiry and the fifth respondent shall ensure that the father-in-law and mother-in-law are put back to possession and the sixth respondent shall also continue to be in possession of the property by virtue of the residence order passed in her favour.

Post this case under the caption 'for reporting compliance' on 22.08.2023."

3. When the matter was taken up for hearing today, a compliance report has been filed by the Inspector of Police, Lawspet Police Station, Puducherry. For proper appreciation, the relevant portions are extracted hereunder:

"In this regard, the Counter Petitioner Shakila called to PS with help of WPC and enquired her in front of WPC and her Counsel (Woman advocate Meenakshi) in which she stated that already her in-laws staying with her in the house in a separate room were the house contains 3 rooms. They should use a separate room and they had locked and key separately. Her in-laws sold the properties which are belong to the CP husband one-by-one and now they trying to sell the residing house also. Also the petitioner brings many unknown persons to the said house and tried to sell the house without CP concerned. The CP had no objection to live in the residing house but they do not want to disturb the CP and her children's peaceful possession in the said house and also they should not sale the property without CP concern still the court order is pending. In this regard, the CP gave a written statement (Copy enclosed).

Further, on 20.08.2023 the petitioner and her husband Rehmanthullah bring back to their residence with the help of WPC 4000 Krishnapriya and their counsel. The petitioner and her



husband are willing to give their statement in the house itself. Based on the request, the Police Photographer called to spot for video graph the petitioner statement at her residence No.65, 1st Cross, Sankaradass Swamigal Nagar, Lawspet, Puducherry and recorded their statement with the help of police videographer to spot. In which the house consisting only ground floor with 3 bed rooms and 1 common hall and 1 kitchen and common toilet. Further, the petitioner seeking 2nd room of the house but the counter petitioner requested there is no vacancy at the 2nd room since her daughter stay there. Further, the petitioner and her husband are residing in 3rd room earlier now the same full of furniture material. The same statement of the petitioner Fathima and her husband Rehmanthullah videographed with the help of Police videographer and WPC in the presence of counter petitioner Shakila. (Copy of DVD enclosed for kind perusal)."

4. Learned counsel for petitioner submitted that even though the petitioner and her husband were brought back to the residence, they are not given any room and they are made to stay in the hall.

5. Learned Additional Public Prosecutor submitted that there are three rooms in the house and one room is occupied by the daughter-in-law and the other room is occupied by the granddaughter and there was a third room where the petitioner and her husband were asked to occupy.

6. It is clear from the status report that the third room was consisting of furniture materials. Therefore, unless the same is cleared, that room cannot be occupied by the petitioner and her husband. In view



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of the same, there shall be a direction to the fifth respondent to ensure that the petitioner and her husband stay in the third room. If that room is found locked, the fifth respondent shall request for the keys from the daughter-in-law and if it is not given, the lock can be broken open and possession of that room can be given to the petitioner and her husband.

7. It is made clear that the petitioner and her husband will peacefully stay in the house without causing any problem to the daughter-in-law and the daughter-in-law is also directed not to cause any problem to the petitioner and her husband.

This Writ Petition is disposed of in the above terms. No costs.

22.08.2023

Speaking Order/Non-speaking Order

Index : Yes/No

Neutral citation: Yes/No

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N.ANAND VENKATESH, J



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