



W.P.No.1798 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.1798 of 2022

M.Shanthi

... Petitioner

Vs.

1.Deputy Commissioner of Police,
Central Crime Branch,
Chennai.

2.Deputy Commissioner of Police,
CB-CID, Chennai.

3.The Joint Commissioner,
Tondiarpet North Police Station,
Chennai – 81.

4.Inspector of Police,
Muthialpet Police Station,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India for issuance of writ of Mandamus to direct the third respondent to transfer the investigation on the complaint dated 23.10.2021 given to the fourth respondent to either first respondent or the second respondent.



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For Petitioner : Mr.K.Sathyabal
For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This writ petition is filed by the petitioner seeking transfer of investigation on the complaint dated 23.10.2021 given to the fourth respondent since no action has been taken.

2.The gist of the allegations in the complaint is that the petitioner's mother Kamalammal @ Selvamery had eight daughters and three sons, of which two of them, namely, Immanuel and Lawrence died as Bachelor and the other brother Williams died on 02.08.2007 leaving behind his wife and son, namely, Hemalatha and Thilakrajan, as his legal heirs. The said Williams had some difference of opinion with his wife, hence they got separated and he was living alone. The petitioner's grandmother Murugammal died on 25.12.1965 and the petitioner's mother Kamalammal @ Selvamery died on 15.11.2010. The petitioner and her siblings inherited two properties, one at Door Nos.31 and 32, V.O.C. Nagar [George Town],



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Ashirvathapuram, Amman Koil Street, Chennai-600 108 and another at Door No.9, V.O.C. Nagar [George Town], Ashirvathapuram, Amman Koil Street, Chennai-600 108. One of the property belong to petitioner's maternal uncle Puthira Sigamani alias Joseph Sigamani and after his demise, both properties were enjoyed by the petitioner's mother Kamalammal @ Selvamery, petitioner and her siblings. After the demise of petitioner's mother, the wife and son of Williams attempted to encroach the property claiming that the property has been settled to them by the petitioner's mother Kamalammal @ Selvamery in their favour. On 06.07.2018, the wife and son of Williams with anti-social elements attempted to forcibly evict the petitioner and also damaged the articles inside the house. Immediately, a complaint was given to the Inspector of Police, Muthialpet Police Station on 06.07.2018 and thereafter on 10.07.2018 complaint was given to the Commissioner of Police. On the complaint dated 06.07.2018, C.S.R.No.184 of 2018 was assigned but no action was taken. Thereafter, another complaint was given to the jurisdictional joint Commissioner of Police on 26.02.2020.



3.The petitioner has also given a complaint to the Assistant Engineer, Electricity Department on 21.01.2021 for illegal tampering of electricity connection by the said persons. On 10.02.2021, again a complaint was given to the Joint Commissioner of Police followed by another complaint on 28.08.2021 to the Inspector of Police, Muthialpet Police Station and again another complaint was given on 23.10.2021. Despite the petitioner giving complaints to the Police officials and to the authorities from the year 2018, there is no response and no action has been taken so far. The Police Officials informed that the said Hemalatha and Thilakrajan filed a civil suit in C.S.No.446 of 2013 and had obtained an exparte order on 04.07.2019. Further, in one of the suit in O.S.No.4783 of 2020, the prayer sought for is possession and permanent injunction. When the suit itself is filed for possession and permanent injunction, it is confirmed that the said persons were not in possession of the property and only the petitioner and her siblings were in possession of the property. The petitioner has also filed a civil suit and the same is pending before the Sessions Court, Chennai. This being so, unauthorizedly using anti-social elements with force, the said Hemalatha and Thilakrajan demolished the dwelling house of the petitioner



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and her siblings, forcibly evicted them and caused damage. Due to the inaction on the part of the Police and other Officials, the petitioner and her siblings are now in street.

4.Heard Mr.K.Sathyabal, learned counsel appearing on behalf of the petitioner.

5.Learned Additional Public Prosecutor submits that the petitioner has not filed any proof of submitting the complaint dated 23.10.2021. The jurisdictional Police received the copy of the complaint from the CM Cell on 01.12.2021, thereafter the petitioner was summoned to appear for enquiry on 24.01.2022, the petitioner appeared on 25.01.2022 and took time to produce the documents confirming her rights. He would submit that another notice was sent to the petitioner on 10.02.2022, again she appeared on 12.02.2022 and sought time with the same reason. Thereafter, the petitioner failed to appear and produced any document. Hence the petitioner's complaint was not acted upon for want of materials and the same is recorded on 15.02.2022. he further submitted that the counter party, namely,



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Thilakrajan filed a complaint before the learned XVI Metropolitan Magistrate, Chennai in CrI.M.P.No.8099 of 2021 under Section 156(3) Cr.P.C.. The learned XVI Metropolitan Magistrate forwarded the complaint, thereafter FIR registered against Prema, Vasantha, Nethra,..... in Crime No.101 of 2022 for the offence under Sections 447, 294(b) and 506(i) IPC. He further submits that if the petitioner appears before the respondent police and submit the documents, the same would be considered.

6.Learned counsel for the petitioner submitted that the petitioner shall appear before the fourth respondent with all the relevant documents and a copy of the complaint on 28.06.2023.

7.The fourth respondent thereafter to look into the complaint, conduct enquiry and dispose of the same on its own merits within a period of three weeks from the date of appearance of the petitioner and submission of documents.



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WEB COPY 8. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs.

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Index: Yes/No

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Note: Issue order copy on 26.06.2023

To

1. Deputy Commissioner of Police,
Central Crime Branch,
Chennai.
2. Deputy Commissioner of Police,
CB-CID, Chennai.
3. The Joint Commissioner,
Tondiarpet North Police Station,
Chennai – 81.
4. Inspector of Police,
Muthialpet Police Station,
Chennai.
5. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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