



W.P.No. 9891 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No. 9891 of 2023

M.Elavarasi

... Petitioner

Versus

1.The Superintendent of Police,
Kallakurichi District,
Salem Main Road,
Kallakurichi – 606 213.

2.The Inspector of Police,
Land Grabbing,
Kallakurichi District,
Salem Main Road,
Kallakurichi – 606 213.

3.Senthil

4.V.Mahindran

... Respondents



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PRAYER : The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 and 2 not to harass the petitioner herein regarding the complaint lodged by the 4th respondent.

For Petitioner : Mr. K.Krishnan

For Respondents : Mr.S.Santhosh
1 to 3 Government Advocate (Crl.side)

ORDER

The Writ Petition for Mandamus is filed to direct the 1st and 2nd respondents not to harass the petitioner on the basis of the complaint lodged by the 4th respondent.

2. The learned counsel for the petitioner submitted that the pure civil transaction is sought to be converted into a criminal case. He would submit that there is a civil suit pending between the parties in O.S.No.168 of 2023 on the file of the Principal Sub Court, Kallakurichi.



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3. The learned Government Advocate (Crl. Side) submits that an enquiry is pending on the basis of the complaint given by the 4th respondent in C.S.R.No.185 of 2023 and that the respondents would not harass the petitioner.

4. This Court is of the view that the petitioner shall not be harassed in the guise of an enquiry. If the respondents intend to conduct an enquiry, they shall follow the following guidelines:

“a) While summoning any person named in the complaint or any witness to the incident complained of, the police officer shall summon such person through a written summon under Section 160 Cr.P.C., specifying a particular date and time for appearing before them for such an enquiry/investigation.

b) The respondent/Police is directed to serve summons mentioning the CSR number, date of complaint and the name of the complainant.



c) The minutes of the enquiry shall be recorded in the general diary/station diary/daily diary of the police station.

d) The police officer shall refrain himself or herself from harassing persons called upon for enquiry/investigation.

e) The guidelines stipulated for preliminary enquiry or registration of FIR by the Hon^{ble} Supreme Court in Lalita Kumari Vs. Government of Uttar Pradesh and others [2014 (2) SCC (1)] shall be strictly adhered to.

f) If any cognizable offence is committed, then it is open to the respondent police to take appropriate action or else they should not interfere with the civil dispute



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between the parties.

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With the above observation, the petition is allowed. No costs.

31.03.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To

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