



W.P.Nos.27338 & 27340 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :	20.09.2023
PRONOUNCED ON :	14 .12.2023

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.Nos.27338 & 27340 of 2023

J.Padmavathi

... Petitioner in W.P.
No.27338 of 2023

J.Kanimozhi

... Petitioner in W.P.
No.27340 of 2023

Vs.

1. The Chairman,
State Human Rights Commission,
O/o State Human Rights Commission,
143, Greenways Road, R.A.Puram,
Chennai 600 028
2. The Superintendent of Police,
O/o the Superintendent of Police,
Sathuvachary, Vellore 632 006
3. The Inspector of Police,
O/o the Inspector of Police,
Sathuvachary Police Station,
Sathuvachary, Vellore 632 006



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4. The Branch Manager,
Indian Bank,
Sterling Road Branch,
No.36, Sterling Road,
Nungambakkam, Chennai 600 034

... Respondents in both W.P.'s

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the first respondent to consider the petitioners' complaints dated 19.05.2022 and 11.07.2023 in Diary Nos.8100/CR/2022 & T.12435.

In both cases:

For Petitioners	: Mr.Murali Kumaran, Senior Counsel, For MC Gan Law Firm
For R-1	: Mr.C.Jayaprakash
For RR 2 & 3	: Mr.C.E.Pratap, Government Advocate
For R-4	: Mr.Jayesh B Dolia, Senior Counsel For M/s.Aiyar & Dolia

COMMON ORDER

Per J.NISHA BANU, J.

The above writ petitions are filed by the mother and daughter seeking for a direction to the first respondent to consider their complaints dated 19.05.2022 and 11.07.2023 filed in Diary Nos.8100/CR/2022 & T.12435.



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2. The facts leading to the complaints filed by the petitioners before the

State Human Rights Commission are stated as follows:

(i) The petitioner in W.P.No.27338 of 2023 is the mother, who is residing at No.1217/A, 63rd street, Phase II Sathuvachary Vellore 632 009 and her daughter is the petitioner in W.P.No.27340 of 2023 is also residing in the above same address.

(ii) Originally, the petitioner in W.P.No.27338 of 2023 had entered into an unregistered Agreement of Sale, dated 13.06.1993 for the purchase of the above said property with one Ramanadhan. According to the learned counsel for the petitioners, one Mr.S.S.Vasan, a resident from Royapettah, colluded with the said Ramanathan and created encumbrance over the said property by registering a sale deed in favour of him and had been attempting to dispossess the petitioners and their family members from the above said property.

(iii) The said S.S.Vasan had also fraudulently mortgaged the subject property with the fourth respondent Bank and had availed loan. Due to default in payment of debts, his account has been declared as NPA by the fourth



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respondent.

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(iv) In the meanwhile, the petitioner in W.P.No.27338 of 2023 had filed O.S.No.1/2019 before the District Munsif Vellore, seeking permanent injunction against the said S.S.Vasan from any manner evicting them from the subject property. Even before the said O.S.No.1 of 2019 attained finality, the fourth respondent /Indian Bank, on account of the default committed by the said S.S.Vasan, brought the subject property for public auction.

(v) The petitioner in W.P.No.27340 of 2023/ daughter, participated in the e-Auction conducted by the fourth respondent Bank and had quoted the highest amount and was also declared as the successful bidder. But the said S S Vasan challenged the auction proceedings in S.A.No.35 of 2019 before the Debts Recovery Tribunal- I, Chennai and the Tribunal granted a conditional stay, subject to payment of 20% of the sale value in two installments, which was not complied by the said S S Vasan. Therefore, the case was posted for arguments on 21.06.2019 before the Tribunal.



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(vi) Even though during the e-auction process, the sale of the subject property was concluded in favour of the daughter, the respondent Bank did not send any communication to the petitioner for the sale and also did not refund the EMD paid by the petitioner. Thereafter, the respondent Bank had again announced another e-auction on 28.02.2022, which was also challenged by the said S S Vasan and his wife in S.A.No.77 of 2022 and a conditional order in I.A.No.198 of 2022, dated 24.02.2022, directing S.S.Vasan and his wife, to pay a sum of Rs.5,00,000/- on 28.02.2022 and a further sum of Rs.20,00,000/- within 4 weeks thereafter came to be passed.

(vii) The petitioner in W.P.No.27340 of 2023, wanting not to take any chances, remitted an EMD of Rs.5,56,000/- on 25.02.2022 and participated in the e-auction, which was conducted on 28.02.2022. Even on that occasion, the petitioner was declared as the successful bidder. But for the reason best known, the fourth respondent Bank did not issue any sale certificate, when the petitioner was ready to pay the balance bid amount. In this regard, the petitioner filed a police complaint since no such sale confirmation was given by the respondent Bank.



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WEB COPY (viii) In the meanwhile, the said Mr. S.S. Vasan, inspite of the pendency of the above suit and proceedings before the Debt Recovery Appellate Tribunal, Chennai, on 22.04.2022, with an ulterior motive, barged into the residence of the petitioners along with 10 rowdy elements and illegally attempted to disposses the petitioners from the house property, by abusing the petitioners using unparliamentary and filthy language and severely manhandled and assaulted the petitioners.

(ix) Immediately, the petitioners rushed to the Inspector of Police, Sathuvachari Police Station, Vellore and gave a complaint against the above criminalities of S. S. Vasan and his hooligans. But Mr. Karunagaran, Inspector of Police refused to take the complaint and threatened the petitioners to vacate and handover the possession of the property to S.S. Vasan, thereby committed Human Rights violation against the petitioners.

(x) Thereafter, the petitioners sent a complaint by registered post to the CM Cell, DGP Office, District Collector of Vellore, Superintendent of Police and



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also to the Inspector of Police, Sathuvachari. But to the shock and surprise of the petitioners, the Inspector of Police, in collusion with S.S.Vasan, registered a false complaint in Crime No.110/2022 against the petitioners.

3. According to the learned counsel for the petitioners, the petitioner in W.P.No.27340 of 2023 being the successful bidder twice in the e-auction, is entitled for sale confirmation. But the said S.S. Vasan by employing hooligans and joining hands with the local police, had committed Human Rights violations against the petitioners with the aid of the local police especially Mr. Karunagaran, the Inspector of Police, by threatening the petitioners to vacate and handover the property to S.S. Vasan. Hence, the petitioners preferred the above complaints before the first respondent and requested for action against them.

4. Mr.C.E.Pratap, learned Government Advocate appearing on behalf of the respondents 2 & 3 filed a status report before this Court. It is averred that during the course of investigation, it reveals that the said S S Vasan has lodged a complaint against one Jayasankar @ Batacha, who is the husband of the



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petitioner in W.P.No.27338 of 2023 regarding the land dispute. A case was also registered in Crime No.281 of 2021 u/s 294(b), 448, 506(ii) of IPC on 11.10.2021 and after completion of elaborate investigation, the case was referred as offence abates, since the said Jayasankar @ Batacha died on 07.11.2022. Thereafter, the wife of the deceased, i.e. the petitioner in W.P.No.27338 of 2023 has lodged a complaint before the third respondent against the said S S Vasan and 15 others stating that they trespassed into her house. Based on that, a case was registered in Cr.No.206 of 2022 u/s 147, 148, 294(b), 506(i) of IPC on 15.08.2022 at about 11:30 hrs and after completion of investigation, the said case in Cr.No.206 of 2022 was referred as 'mistake of fact' on 20.12.2022. With regard to Cr.No.110 of 2022, charge sheet against the accused was filed before the Judicial Magistrate No.V, Vellore and the same is yet to be taken on file.

5. Heard both sides and perused the materials available on record.

6. A perusal of records would go to show that the petitioners filed complaint before the Human Rights Commission and requested for action against the wrongdoers for the violation of human rights. However, the complaint has



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not been taken on record. This writ petition is filed praying for a direction to the 1st respondent to consider the petitioners' complaint.

7. The contention of the petitioners' counsel is that the constitution of the Human Rights Commission needs to be looked into in the right perspective. He further submitted that rights which are to be protected under the Act required to be examined and appreciated. The Commission enjoys as a whole the status of a Civil Court while conducting inquiries into the complaints.

8. Section 12 and Sub Clauses thereto of Protection of Human Rights Act read as under:

'12. Functions of the Commission.—The Commission shall perform all or any of the following functions, namely:—

- (a) inquire, suo motu or on a petition presented to it by a victim or any person on his behalf [or on a direction or order of any court], into complaint of— (i) violation of human rights or abetment thereof; or (ii) negligence in the prevention of such violation, by a public servant;
- (b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
- (c) visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the



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living conditions of the inmates thereof and make recommendations thereon to the Government;

(d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;

(e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;

(f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;

(g) undertake and promote research in the field of human rights;

(h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;

(i) encourage the efforts of non-governmental organisations and institutions working in the field of human rights;

(j) such other functions as it may consider necessary for the promotion of human rights.'

9. Sec.17 relates to inquiry into complaints.

(i) The Commission, while inquiring into the complaints of violations of human rights may, under Clause (i) thereof, call for information or report from the Central Government or any State Government or any authority or organisation subordinate thereto within such time, as may be specified by it. If the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaints on its own. If, on receipt of



information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly.

(ii) Clause (ii) thereof specifically provides that without prejudice to anything contained in Clause (i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

(j) Sec.18 contains provisions relatable to steps, after inquiry. The Commission may take any of the following steps upon the completion of an inquiry held under P.H.R.A. as indicated in Clause (1) to (6) thereof. They are: (1) Where the inquiry discloses, the commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons; (2) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary; (3) recommend to the concerned Government or authority for the grant of Such immediate interim relief to the victim or the members of his family as the Commission may consider necessary; (4) subject to the provisions of clause (5), provide a copy of the inquiry report to the petitioner or his



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representative; (5) the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission; and (6) the commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission. “

10. The Full Bench judgment of this court in the case of Abdul Sathar Vs. The Principal Secretary to Government, Home Department, Fort St.George, Chennai-600 009 and others, held as under:-

“100. The above observations clearly spelt out that the complaints of Human Rights violations need to be settled with binding determination and the Human Rights Bodies ought to have the ability to seek the enforcement through the Court system.

101. The learned counsel would also refer to Articles 8 of Universal Declaration of Human Rights adopted by the United Nations on 10.12.1948, which read as under: 'Article 8



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Everyone has the right to an effective remedy by the competent national Tribunals for acts violating the fundamental rights granted him by the constitution of law.'

11. The facts of this case would go to show that the 3rd respondent-Inspector of Police, has taken the complaint filed by S.S.Vasan on 22.04.2022, however, when the petitioners given the complaint, the 3rd respondent refused to take the complaint and register the same. The petitioners approached this court by way of Crl.O.P.No.16760 of 2022 and got the complaint registered in Crime No.206 of 2022. It is the contention of the petitioners that they were put to harassment and threat at the hands of police and after facing serious attacks like demolition by bulldozers by S.S.Vasan and the failure of the police to take action, the petitioners filed the complaint on the file of first respondent-Human Rights Commission. It is also pertinent to note that the petitioner's complaint and the FIR registered in that regard was closed as mistake of fact and no copy was given to the petitioners.

12. The status report filed by the 3rd respondent-Inspector of Police,



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Sathuvachari, Vellore, would go to show that during the course of investigation, they visited the scene of occurrence and examined the witnesses and recorded the statements of defacto complainant viz., Vasam and other eye witnesses and registered the case against Jayasankar @ Batacha, father of the 2nd petitioner and after complete investigation, since the accused Jayaankar @ Batacha was died on 07.11.2022, the offence abated. It is also submitted that on the complaint of the petitioners, Crime No.206 of 2022 has been filed under Section 147, 148, 294(b), 506(i) IPC on 15.08.2022 and after complete investigation, the case in Crime No.206 of 2022 was referred as Mistake of Fact on 20.10.2022.

13. Therefore, we are of the considered opinion that the Primary function of Human Rights Commission is to enquire into the violation of Human Rights or abetment thereof. The Human Rights is a broad concept. The jurisdiction of the Human Rights Commission was enlarged by [Section 12](#) (j) of the Act 1993 Act to take necessary action for the protection of Human Rights. Such action would include inquiring into cases where a party has been denied the protection of any law to which he is entitled, whether by a private party or a public institution. Therefore, we direct the 1st respondent-The Chairman, State Human Rights



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Commission, to take the complaints on file and enquire the case and proceed in accordance with law.

14. The writ petitions are disposed of with the above direction. No costs.

[J.N.B.,J]

[N.M.,J.]

14.12.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

sts/nvsri

To:

1. The Chairman, State Human Rights Commission,
O/o State Human Rights Commission,
143, Greenways Road, R.A.Puram,
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2. The Superintendent of Police, O/o the Superintendent of Police,
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J.NISHA BANU, J.,
and
N.MALA, J.,

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Order made in
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