



W.P.No.28877 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2023

CORAM:

THE HON'BLE DR.JUSTICE G. JAYACHANDRAN

W.P.No.28877 of 2023

and

W.M.P.Nos.28460 and 28461 of 2023

K.Chandrasekar

...Petitioner

Vs.

1.The Sub Collector,
Chidambaram,
Cuddalore District.

2.The Executive Magistrate/Tahildar
Buvanagiri Taluk,
Cuddalore District.

3.The Deputy Superintendent of Police,
Sethiyathope,
Cuddalore District.

4.The Inspector of Police,
Sethiyathope Police Station,
Cuddalore District.

5.Tmt.Krishnaveni

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records on the file of the 2nd



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Respondent in order dated 19.09.2023 under Section 145 (1) of Cr.P.C. In
Na.Ka.No.A1/1474/2023 and quash the same.

For petitioner Mr. V.K. Bhuvaneshwar
for Mr. M. Vijaya Kumar

For RR 1 to 4 Mr. S.Udaya Kumar
Government Advocate (Crl.Side)

ORDER

The petitioner is aggrieved by the order of the Executive Magistrate, who has taken note of the disturbance to the public peace and tranquility due to the dispute between two warring groups over the enjoyment of a public place and apprehending disturbance in the public place, has instructed the local police to restrain persons from entering the disputed place.

2. The learned counsel for the petitioner submitted that the civil dispute in respect of the property has ended in favour of the petitioner and while so, the Executive Magistrate has no authority to interfere and take cognizance of the reference made by the local police to initiate proceedings under Section 145, Cr.P.C.



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3. The learned counsel for the petitioner relied upon the judgment of the Supreme Court in *Ram Sumer Puri Mahant vs State of U.P. and ors* AIR 1985 SC 472, wherein, the Executive Magistrate, who was put to notice about the pendency of Civil litigation, has exercised power under Section 145, Cr.P.C. and passed a restraint order.

4. This is a case where the petitioner though claims that the civil suit ended in his favor, from the records, it does not appear that the same was brought to the notice of the Executive Magistrate.

5. The learned counsel for the petitioner states that the enquiry is adjourned to the end of this month for further proceedings. It is open to the petitioner to make a written submission about all his defense and participate in the enquiry and on hearing both sides, the Executive Magistrate shall pass an appropriate order in accordance with law, taking into consideration the pronouncement of Courts and the power of the Executive Magistrate under Section 145, Cr.P.C.



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In the result, this writ petition is dismissed. No costs. Connected writ miscellaneous petitions are closed.

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Internet : Yes/No

Index : Yes/No

To:

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