



W.P.No.32234 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

CORAM

THE HONOURABLE MR. JUSTICE Dr. G. JAYACHANDRAN

W.P.No.32234 of 2023

and

W.M.P.No.31842 of 2023

K.Chandrasekar

... Petitioner

Vs.

1. The Sub Collector,
Chidambaram, Cuddalore District.

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

3. The Deputy Superinendant Of Police,
Sathiyathope Police Station,
Cuddalore District.

4. The Inspector Of Police,
Sethiyathoe Police Station,
Cuddalore District.

5. Krishnaveni

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of Certiorari, calling for the records on the



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file of the 2nd respondent in order dated 03.11.2023 in Na.Ka.No. A1/1474/ 2023 under Section 145 of Cr. P.C. and quash the same.

For Petitioner : Mr.V.K.Bhuvaneshwar
For Respondents : M/s.Arul Joseph Selvam,
Govt.Advocate (Crl.Side),
(for R1 to R4)

ORDER

This writ petition is filed challenging the order passed by the second respondent namely, the Executive Magistrate / Tahsildar, Buvanagiri Taluk, in a proceeding initiated under Section 145 of Cr.P.C.

2. The petitioner herein is the title holder of the property extending 0.0160 Sq.Mtr. in Survey No.205/20B1A, Old Survey No.205/11 & 205/5B1, situated at Sethiyathope Village, Buvananagiri Taluk, Cuddalore District. He claims title based on the sale deed dated 30.12.2009. The commercial building has been constructed by him in the year 2019. The infrastructural facilities like power supply and other amenities were obtained by him for the said property.



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3. The vendor, earlier filed a suit to cancel the deed but the said suit in the O.S.No.1 of 2013, on the file of Subordinate Judge Chidambaram, was dismissed on 10.09.2019. Thereafter, the vendor's daughter alleged a complaint to the 3rd respondent which has been referred to the 2nd respondent for taking action under Section 145(1) of Cr.P.C. In course of the said proceedings, the impugned order has been passed restraining the petitioner herein from entering the disputed premises. The said order is challenged on the ground that it brussels with fundamental infirmity, primarily, when the Civil Court has already decided the matter hence, regarding the title and possession, the order of the 2nd respondent is per se illegal. Furthermore, the inquiry was not conducted by him in the manner known to law but in violation of principles of Natural Justice.

4. The impugned order forcing the petitioner to again revert to the Civil Court is nothing but a non-application of mind and total disregard to the earlier Judicial Pronouncement.

5. This Court on perusing the records and the process adopted by the 2nd respondent in carrying out the proceedings under Section 14 Cr.P.C.



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being total contrary to the procedure laid and also factually incorrect, holds it liable to be set aside. Accordingly the same is set aside.

6. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

30.11.2023

Index : Yes
Speaking Order
Neutral Citation : Yes
(sha)

To

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Dr. G. JAYACHANDRAN. J.,

(sha)

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