



W.P(MD) No.503 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :02.08.2023

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THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P(MD)No.503 of 2021

Jaffar Ibrahim

... Petitioner

-Vs-

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Home Department
Secretariat, St.George Fort,
Chennai -9.
2. The Director General of Police
South Region
O/o. Director General of Police
Trichy.
3. The District Superintendent of Police
Pudukottai District,
Pudukottai
4. Ravindran
5. Rajendran
6. Burhan Bin Kamaldeen
(R6 impleaded vide court order
dated 12.08.2021)

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents 1 to 3 to take legal action against the erring police



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official respondents 4 and 5 in accordance with law in pursuant to the occurrence dated 29.11.2020 and 30.11.2020

For Petitioner : Mr. G.Jeremiah
For R1 to R3 : Mr. R.M.Anbunithi
Additional Public Prosecutor
For R6 : Mr.S.Saravanakumar

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus to direct the respondents 1 to 3 to take legal action against the erring police official respondents 4 and 5 in accordance with law in pursuant to the occurrence dated 29.11.2020 and 30.11.2020.

2. According to the petitioner he is the owner of the dwelling house property to an extent of 8685sq.ft comprised in S.No.381/1 in an extent of 0.06.0, S.No.383/27 in an extent of 0.06.0, S.No.383/28 in an extent of 0.04.0 and 383/29 in an extent of 0.04.4 in Arasarkulam Village, Aranthangi Taluk, Pudukottai District. The said property originally belongs to his father Mohamed Ibrahim and he sold one portion of the property in extent of 8550 sq.ft to one Baseera Begum. Remaining portion of the property was gifted to his mother and his father died on 18.04.2011. After the demise of his father his mother



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was taken care of by him and thereby his mother executed settlement deed in favour of the petitioner on 31.05.2021. Based on the said settlement deed the petitioner was in possession and enjoyment of the house property. On 01.11.2020 his mother died and thereafter his sister complaint alleging that there is suspicion over the death of his mother. Baed on that complaint First Information Report has been registered in Crime No.568 of 2020 under Section 174 of Cr.P.C dated 01.11.2020. After post mortem the body of his mother was handed over to the petitioner. Thereafter on 04.11.2020 said Rajendran made a complaint before the police against the petitioner, his wife and First Information Report has been registered in Crime No.573 of 2020 for the offences under Sections 294(b), 353 and 506(i) of IPC and thereafter filed bail petition before this Court and the same was dismissed vide order dated 18.11.2020. In the above said circumstances on 29.11.2020 at about 8.30 am., one Mohammed Meera, Ismail and his gang members unlawfully entered into house with deadly weapons and threatened during demolition work and the watchman of the petitioner reached the place of occurrence and at that time the accused persons broke open the wooden bureaus and cupboards and looted 120 sovereigns of gold and title deeds of the properties. They demolished the house with JCB bearing Reg.No. TN 55 AQ 2324. The said occurrence was informed to the third and fourth



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respondents and they have reached the place of occurrence but they have not stopped the illegal acts of the respondents and they have been standing casually along with the accused persons. Immediately after the occurrence the watchman of the petitioner Shahul Hameed made a police complaint before the fourth respondent but they refuse to receive the complaint. Thereafter on 30.11.2020, the accused persons came to the house of the petitioner and demolished remaining portion of the house property and the same was informed to the third respondent and the third respondent deployed the Inspector of Police one Mr.Ravindran and 10 police constables to stop the demolition of the building. The respondents 4 and 5 and their police team were only escorting the accused person while demolishing the house in the broad day light. Therefore the petitioner has filed a writ petition before this Court in W.P(MD) No.18942 of 2020 and the same is pending. On 02.12.2020 the petitioner made representation to the respondents and other officials, till date they have not taken any action based on the representation given by the petitioner. Hence he has filed the present petition to take legal action against the erring officials.

3. No counter was filed by the respondents.



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4. The learned counsel for the petitioner would contend that the property belongs to the petitioner and there is misunderstanding between the petitioner and the private respondent and thereby the private respondents trespassed into the said property and damaged the properties of the petitioner. The petitioner has given complaint before the third respondent, but no action was taken. Thereafter again the private respondents along with 30 other persons went to the place of occurrence and demolished the remaining portion of the building. Therefore the petitioner informed the police over phone and the police also deployed one Ravindran Inspector of Police and other 10 police officials but they have not taken any steps and they only stood as silent spectators and not even stopped the illegal acts of the accused persons. Therefore he gave representation dated 02.12.2020 to take action against the police officials and the same was also not considered. Hence he has filed the present petition to take legal action against the erring officials.

5. The learned counsel appearing for the private respondent contended that the property belongs to his father and his father executed settlement deed in favour of his grand son, thereby the property belongs to him and due to misunderstanding between the petitioner and the private respondent civil suit was also filed and the



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same is pending. since the property belongs to him the petitioner has no *locus standi* to question the property, hence the petition is not maintainable for taking disciplinary action as against the police officials.

6. The learned Additional Public Prosecutor appearing for the official respondents would contend that already disciplinary action was initiated based on the directions given by this Court with regard to the same incident and thereby there is no need for pass any further orders in this petition by this Court and the petition is liable to be dismissed.

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

8. This petition has been filed by the petitioner to take legal action as against erring police officials. As far as disciplinary action is concerned the petitioner being third party cannot seek any direction to take disciplinary action as against the officials. As far the maintainability of this petition is concerned for taking disciplinary action as against the police officials is concerned already this Court in W.P(MD) No.8871 of 2018 in the case of ***Sudalaikanu .vs. The***



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Principal Secretary to Government and others after referring to the judgement of the Hon'ble Apex Court made in the case ***Rajnit Prasad vs., Union of India and others*** reported in **(2000) 9 SCC 313** has held that as it is rightly pointed out by the learned Amicus, the law in this regard is well settled, as a third party, not connected with any service dispute cannot maintain the Writ Petition, invoking Article 226 of the Constitution of India, on the service side seeking a Writ of Mandamus to take action against any employee or officials.

9. Therefore in view of the above judgement this petition is not maintainable to take departmental action as against the police officials. As far as other legal action is concerned, if the petitioner is aggrieved by the criminal activities of the police he has to approach the concerned jurisdictional magistrate Court for the criminal acts done by them in accordance with law.

10. With the above observation, the Writ Petition stands disposed of. No costs.

02.08.2023

Index : Yes/No
Internet : Yes/No
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To

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South Region
O/o. Director General of Police
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4. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.



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P.DHANABAL, J.

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