



W.P(MD)No.16572 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD)No.16572 of 2021

and

W.M.P(MD).No.13451 of 2021

Senthil Kumar

... Petitioner

Vs.

1.The Superintendent of Police,
Sivagangai.

2.The Sub Inspector of Police,
Sivagangai Taluk Police Station,
Sivagangai.

3.Amutha

4.Porselvi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the second respondent not to adopt illegal method by disturbing my possession infavour of respondents 3 and 4 against the petitioner in the civil dispute already pending before the Civil Court for adjudication.



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For Petitioner : Mr.N.Madhavagovindan
For R1 and R2 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

ORDER

This writ petitioner filed this Writ Petition seeking issuance of Writ of Mandamus, directing the second respondent not to adopt illegal method by disturbing the petitioner's possession in favour of respondents 3 and 4 against the petitioner in the civil dispute already pending before the Civil Court for adjudication.

2. The petitioner's property is situated in S.No.230 of 15 at Kandangipatti Village, Sivagangai Taluk, Sivagangai. The petitioner is residing in the said address and the respondents 3 and 4 are his sisters. The petitioner's father, namely, Dr.K.Pitchai has purchased the property in the name of the petitioner's mother, namely, Jeeva on 05.01.2011. The petitioner's father obtained loan from the Syndicate Bank and constructed building and paying the loan amount till 29.05.2018 and he died on 29.05.2018. Thereafter, the petitioner and his mother are living in the house. On 11.07.2021, the petitioner's mother died and he performed. This being so, the respondents 3 and 4, who are the sisters of the



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petitioners took away all jewels and vessels from the house and when the same was questioned by the petitioner, dispute arose.

3. The fourth respondent already filed a suit against the petitioner, mother and sister/third respondent in O.S.No.626 of 2019 on the file of the II Additional Sub Court, Madurai for partition. The petitioner filed O.S.No.55 of 2020 on the file of the District Munsif Court, Sivagangai, seeking for permanent injunction. This being so, the third respondent with the help of the rowdy elements, supported by the second respondent, with a disputed Will said to have been executed by mother, forcibly attempted tried to vacate the petitioner from the property.

4. On 03.09.2021, the second respondent called the petitioner for enquiry, the petitioner attended the enquiry and explained the pendency of the suit filed by him.

5. The learned Additional Public Prosecutor appearing for the respondent police submitted that in this case, there is a dispute between the brother/petitioner and the respondents 3 and 4/sisters. The fourth respondent had inter-caste marriage and due to some dispute, the fourth



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respondent's husband has given a complaint against this petitioner. After full fledged investigation, on 07.09.2021, charge sheet filed against the petitioner herein. The same taken on file in Spl.S.C.No.10 of 2022 before the PCR Court, Sivagangai. For the dispute between the petitioner and the private respondents, civil suits are pending between them. It is for them to seek appropriate order with regard to the right over the property. He further submitted that since the investigation already completed and charge sheet filed by the second respondent, there is no necessity for second respondent to go into the property of the petitioner and disturb his peaceful life, it is on mere apprehension, this petition has been filed.

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

7. A perusal of records shows that the petitioner is having dispute with the private respondents, who are none other than his sisters. The fourth respondent lodged a complaint against the petitioner and charge sheet filed before the concerned Court and the same taken on file. The fourth respondent has filed O.S.No.626 of 2019 for partition and the petitioner has filed O.S.No.55 of 2020, seeking permanent injunction. During the course of submission, the learned Additional Public



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Prosecutor appearing for the respondent police submitted that the petitioner is not required for any enquiry.

8. In view of the above, this Court finds petitioner's apprehension unwarranted. Accordingly, this writ petition is dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

21.07.2023

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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To

- 1.The Superintendent of Police,
Sivagangai.
- 2.The Sub Inspector of Police,
Sivagangai Taluk Police Station,
Sivagangai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J

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Order made in

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