



W.P.(MD)No.19822 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 17.08.2023

CORAM

THE HONOURABLE DR.JUSTICE D.NAGARJUN

W.P.(MD)No.19822 of 2023

Raja Pandi

... Petitioner

Vs

1.The Commissioner of Police,
O/o. The Commissioner of Police,
Madurai City.

2.The Inspector of Police,
South Gate Police Station,
Madurai District.

3.Kaliswaran

4.Prasanth

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 and 2 to provide adequate police protection to the petitioner for enjoying the petitioner's possession in his property situated at D.Nos.153, 153 A, T.S.Nos.490/1 and 490/2, Nethaji Road, Corporation Ward 38, Madurai South, Madurai, by considering the petitioner's representation dated 31.03.2023.

For Petitioner : Mr.S.Mohamed Ali Jinnah

For R-1 & R-2 : Mr.B.Thanga Aravindh
Government Advocate (Criminal side)



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ORDER

This petition is filed under Article 226 of the Constitution of India seeking for a direction to respondent Nos.1 and 2 to provide adequate police protection to the petitioner for enjoying the petitioner's possession in the petitioner's property situated at D.Nos.153, 153 A, T.S.Nos.490/1 and 490/2, Nethaji Road, Corporation Ward 38, Madurai South, Madurai.

2. It is submitted by learned counsel for the petitioner that the property bearing Nos.153, 153 A, T.S.Nos.490/1 and 490/2, situated at Nethaji Road, Corporation Ward 38, Madurai South, Madurai, belonging to the petitioner and the same was leased out to unofficial respondent Nos.3 and 4. The petitioner's mother has filed RCOP and got, the tenant was evicted and possession was handed over to the petitioner.

3. It is further submitted that the step sister of the petitioner has forcibly inducted third and fourth respondents into the possession of the premises claiming ownership over the said property and also filed a suit in O.S.No.585 of 2015 seeking declaration of title in respect of the said premises and the said suit was dismissed. Thereby, the right of the petitioner's mother over the said property was confirmed. When respondent Nos.3 and 4 have not



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Officer has initiated Section 145 of Cr.P.C. proceedings and after a full-fledged enquiry, orders have been passed vide proceedings No.Mu.Mu.3204/2021/C, directing respondent Nos.3 and 4 to retake possession of the said premises, who earlier got evicted. The petitioner has challenged the said proceedings passed by the learned Executive Magistrate under Section 145 of Cr.P.C. by way of filing Crl.R.C.(MD).No.320 of 2022, wherein, the orders under Section 145 were set aside on 15.02.2023.

4. It is submitted by learned counsel for the petitioner that on account of setting aside the order of the Revenue Divisional Officer, dated 17.02.2022, as per the order dated 15.02.2023, the petitioner shall get back the possession of the property bearing Nos.153, 153 A, T.S.Nos.490/1 and 490/2, which was occupied by respondent Nos.3 and 4, for which the petitioner sought for police protection.

5. Learned Government Advocate (Criminal Side) on the other hand submits that on a complaint given by the present petitioner, a case has been registered against respondent Nos.3 and 4 vide FIR No.279 of 2021 for the offences under Sections 147, 323, 448 and 379 of I.P.C. and investigation is still pending.



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6. The petitioner should have requested the Court, which passed the orders in CrI.R.C.(MD).No.320 of 2022, for a direction to restore his possession back as the petitioner was forcibly dispossessed as per orders dated 17.02.2022 which were set aside by the Court in CrI.R.C.(MD).No.320 of 2022.

7. This Court in this petition cannot permit the petitioner to forcibly dispossess respondent Nos.3 and 4 with the help of the Police. The petitioner is expected to approach the appropriate forum, may be the Executive Magistrate / Revenue Divisional Officer, who has passed 145 proceedings, with a request to restore him back to the possession as he was dispossessed as per Order under Section 145 Cr.P.C. which were set aside by this Court. If the petitioner files an application before the learned Executive Magistrate / Revenue Divisional Officer, the Revenue Divisional Officer is directed to expedite and dispose of the same as quickly as possible.

8. With this observation, this Writ Petition stands disposed of. No costs.

17.08.2023

NCC:yes/no
Index:yes/no
Internet:yes/no

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To

- 1.The Commissioner of Police,
O/o. The Commissioner of Police,
Madurai City.
- 2.The Inspector of Police,
South Gate Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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DR.D.NAGARJUN, J.

tsg

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