



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.277 of 2024

Dr.Vivekanada Subramanianathan

... Petitioner

Vs.

1.The Deputy Commissioner of Police,
St. Thomas Mount,
Chennai – 600 016.

2.The Assistant Commissioner of Police,
Madipakkam Police Station,
Chennai – 600 091.

3.The Inspector of Police,
Madipakkam Police Station,
Chennai – 600 091.

4.R.Gopal

...Respondents

[R4 impleaded vide order dated 09.01.2024 made in W.M.P.No.653 of 2024 in W.P.No.277 of 2024]

PRAYER : Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the Respondents 1 to 3 not to disturb the petitioner's peaceful possession and enjoyment of his property situated in Plot No.1424, Ram Nagar North Extension, Madipakkam, Chennai - 600 091



For Petitioner

: Mr.T.Mohan
Senior Counsel for
G.Mutharasu

For Respondents

: Mr.A.Damodaran
Additional Public Prosecutor
for 1 to 3

Mr.Palaniyandy for R4

ORDER

This writ petition has been filed for issue of writ of mandamus directing respondents 1 to 3 not to disturb the peaceful possession and enjoyment of the petitioner with respect to the subject property.

2.Heard Mr.T.Mohan, learned Senior Counsel appearing on behalf of the petitioner, Mr.A.Damodaran, learned Additional Public Prosecutor appearing on behalf of the respondents 1 to 3 and Mr.P.Palaniyandy, learned counsel appearing on behalf of the 4th respondent.

3.The petitioner claims to be the absolute owner of the subject property. The 4th respondent has given a complaint to the 3rd respondent to the effect that the petitioner has fabricated and created forged documents and was attempting to grab the property



from the 4th respondent. According to the 4th respondent, the petitioner has created so many forged documents and thereby, has not only cheated the 4th respondent, but has also cheated the revenue and the Sub Registrar Office.

4. Based on the complaint given by the 4th respondent, an FIR came to be registered by the Central Crime Branch, Chennai in Crime No.144 of 2023, against the petitioner and others for offence under Sections 465, 467, 468, 471 and 120(B) of IPC r/w Section 34 of IPC. The investigation is pending.

5. The 4th respondent approached this Court by filing writ petition in W.P.No.28193 of 2023, seeking for police protection to the property. This writ petition was dismissed by an order dated 28.11.2023 in the following terms:

The petition is filed seeking Police Protection to the property to which, the petitioner claims title through sale deed executed in the year 1970 in favour of the Rajalakshmi who is the mother of the petitioner. 6th respondent has claimed title over the property through sale deed executed in the year 2020 by one Anandhi. The parties have gone to the Civil Court and suit in O.S. No.251 of 2023 is pending. In the said circumstances, the petitioner herein seeks protection to the property, whereas, the 6th respondent claims that after purchase of the property,



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in the year 2021, the construction work is in progress. Since there is a title dispute between the parties, they have gone to the police and lodged complaint against each other.

2. The learned Government Advocate (Crl.Side) states that totally 6 CSR, each three on the side of the complainant and 6th respondent were registered and enquired. However, since the parties did not cooperate with the enquiry, all those six CSRs were closed.

3. In view of the above facts, the request of the petitioner to provide protection to the properties which is now subject matter of the suit does not arise. Hence, this Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

6. During the pendency of the above writ petition, an interim order was passed by this Court on 27.09.2023 and the 4th respondent alleged that this order was not complied with and hence, filed contempt petition in Cont.P.No.2715 of 2023. This contempt petition was closed by an order dated 29.11.2023 in the following terms:

Alleging that, 6th respondent, who is the private party in connivance with 4th respondent/ Inspector of Madipaakam has defied the order of this Court in W.P.No.28193 dated 27.09.2023, the present contempt petition is filed as against the Commissioner of Police, Deputy Commissioner of Police, Assistant Commissioner of Police, Inspector of



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Police, Madipaakam, Inspector of Police, CCB-I and the private respondent Vivekananda Subramaniya Nathan.

2. The order which is alleged to have been violated reads as below:

Notice to 6th respondent returnable by 18.10.2023.

Private notice permitted. There can be a direction to maintain status quo as on date in this case pending disposal of the criminal original petition.

3. This petition came up for consideration yesterday ie., on 28.11.2023 and this Court after considering the material placed before the Court had dismissed the original petition taking note of pendency of civil suit. As far as the interim order of status quo was passed, it is stated that after the status quo order was passed, there is no construction activity in the premises. Meanwhile, the 6th respondent approached the Civil Court seeking injunction and the matter is pending.

4. In view of the above fact, this Court finds no ground to initiate any contempt proceedings against the respondents and hence the contempt petition is closed.

7.The grievance of the petitioner is that the substantive dispute is now pending before the competent Civil Court and in spite of the same, the respondents 1 to 3 continued to interfere with the possession and enjoyment of the property. In view of the same, the present writ petition has been filed before this Court.



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8.The learned Additional Public Prosecutor appearing on behalf of the respondents 1 to 3 submitted that the investigation is now pending before the Central Crime Branch in Crime No.144 of 2023. During the pendency of this investigation, the petitioner made an attempt to put up some construction and the same was objected by the 4th respondent and it gave rise to law and order problem. Therefore, in order to prevent any untoward incident, the police had to intervene in this case. Apart from that, police do not intend to intervene on the civil dispute between the petitioner and the 4th respondent.

9.The learned counsel for the 4th respondent submitted that the petitioner is attempting to misinterpret the order passed in the writ petition on 28.11.2023 and is proceeding to put up construction. This was prevented by the 4th respondent and it was resisted by the petitioner and it was leading to an untoward incident which was intervened by the police. The learned counsel for the 4th respondent submitted that the petitioner does not have any right to put up any construction in the property, since the property itself has been grabbed from the 4th respondent based on forged and fabricated documents.



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10.Mr.T.Mohan, learned Senior Counsel appearing on behalf of the petitioner submitted that the petitioner is the absolute owner of the subject property and there is no question of grabbing the property from the 4th respondent. The learned Senior Counsel further submitted that the investigation is pending before the Central Crime Branch and the civil rights between the parties is pending before the competent Civil Court. Therefore, the police will have to confine their investigation only with respect to Crime No.144 of 2023 and they do not have the right to interfere with the possession and enjoyment of the property. The learned Senior Counsel further submitted that the 4th respondent is aware about the pendency of the civil suit and it will always be left open to the 4th respondent to put forth all the grievances with respect to the construction of the property, before the Civil Court and workout his remedy. The 4th respondent cannot attempt to achieve through the police what he can otherwise agitate before the Civil Court. Therefore, it was contended that respondents 1 to 3 must be directed not to interfere in the pending dispute between the petitioner and the 4th respondent.

11.In the considered view of this Court, when the 4th respondent wanted police protection for the property and filed the writ petition before this Court, this Court took into consideration the pendency of the suit in O.S.No.251 of 2023. This Court also took into consideration the fact that there were earlier complaints given by both the parties



against each other and all these complaints were closed at the CSR stage. In view of the same, this Court was not inclined to grant police protection to the 4th respondent and as a consequence, the parties will have to agitate their civil rights only before the competent Civil Court.

12.If the respondent police apprehends that the dispute between the petitioner and the 4th respondent is likely to cause a breach of peace, the police will have to necessarily resort to the procedure under Section 145 of Cr.P.C. The respondent police cannot come to the property and stop anyone from putting up construction. This must be kept in mind by the respondent police.

13.The main grievance expressed by the learned counsel for the 4th respondent is that the petitioner is attempting to put up a construction in the property. The 4th respondent is aware of the fact that there is a suit pending in O.S.No.251 of 2023 before the learned Principal District Munsif, Alandur. If the 4th respondent wants to restrain the petitioner from putting up any construction, it is always left open to the 4th respondent to move an application for injunction against the petitioner in the pending suit. This will effectively enable the 4th respondent to stop the petitioner from putting up any construction. The 4th respondent cannot attempt to achieve the same result by



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approaching the police. The respondents 1 to 3 will not have any right to interfere with the civil dispute between the parties. The investigation in Crime No.144 of 2023 that is conducted by the Central Crime Branch will confine itself to the criminality that is involved in this case.

14. In the light of the above clarity given by this Court, it is left open to the 4th respondent to workout his remedy before the competent Civil Court. Insofar as the police is concerned, if they find that situation is going out of hands and there is likelihood of breach of peace, police can always resort to Section 145 of Cr.P.C. This order will sufficiently take care of the interest of all the parties concerned.

15. This writ petition is disposed of with the above directions. No Costs.

09.01.2024
(2/2)

Index : Yes/No
Internet : Yes/No
Speaking/Non-Speaking Order
ssr



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N.ANAND VENKATESH, J

SSR

To

- 1.The Deputy Commissioner of Police,
St. Thomas Mount,
Chennai – 600 016.
- 2.The Assistant Commissioner of Police,
Madipakkam Police Station,
Chennai – 600 091.
- 3.The Inspector of Police,
Madipakkam Police Station,
Chennai – 600 091.
- 4.The Public Prosecutor,
High Court, Madras.

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