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W.P.No.1006 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

W.P.No.1006 of 2020

and

W.M.P.Nos.9439 of 2021 & 22296 of 2022

B.L.Madhavan

... Petitioner

Vs.

1. The Secretary,
Bar Council of Tamil Nadu and Puducherry,
High Court Campus, Chennai-104.

2. The Secretary,
The Bar Council of India,
21, Rouse Avenue, Institutional Area ITO,
Near Bal Bhavan, New Delhi-110 002.

3. The Commissioner of Police,
Greater Chennai City Police,
Vepery, Chennai.

4. The Inspector of Police,
J-1, Saidapet Police Station,
Chennai.

5. B.Amarnath, Advocate



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6. The Assistant Commissioner of Police,
Saidapet Range, Adyar District.

(R6-suo motu impleaded as per order dated 11.06.2024 in WP.1006/2020 by
SMSJ and CKJ)

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of Mandamus, to direct the respondents 1 and
2 to take necessary action against the 5th respondent.

For Petitioner	:	Mr.B.L.Madhavan (party in person)
For Respondents	:	Mr.C.K.Chandra Sekkar, SC BCT (for R1);
	:	Mr.S.R.Raghunathan, SC for BCI (for R2);
	:	Mr.E.Raj Thilak, Additional Public Prosecutor (for R3, R4 & R6);
	:	B.Amarnath (R5-Party in person)

ORDER

(Order of the Court was delivered by S.M.Subramaniam J.)

The writ of mandamus has been instituted to direct the respondents 1
and 2 to take necessary actions against the 5th respondent.



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2. The 5th respondent is an Advocate, enrolled in the Bar Council of Andhra Pradesh. The petitioner is the owner of the building at No.20/1, 2nd Main Road, CIT Nagar, Nandanam, Chennai-600 035. The petitioner inherited the property through his father, Mr.K.Balu. The petitioner entered into an agreement with the 5th respondent and the 5th respondent not only committed default in payment of rent but also occupied other portions of the building by creating forged lease agreements. After expiry of the original lease period, the 5th respondent is continuing in forcible occupation. The petitioner submitted a complaint before the Bar Council of India, before the Bar Council of Tamil Nadu and Puducherry and in Police Station. Since no action has been taken by the authorities the present writ petition came to be instituted.

3. The complaint has been primarily filed on the ground that the 5th respondent, being a lawyer, committed misconduct, not only by creating bogus rental agreement but forcibly occupied five portions of the building belonging to the petitioner. The petitioner being helpless and unable to vacate the 5th respondent, filed complaint before the Bar Council of Tamil Nadu and Puducherry, before the Bar Council of India and in Police Station.



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4. Since the 5th respondent is a lawyer, his conduct, both inside and outside the Court premises, are expected to be good and in accordance with law. To find out the genuinity of the complaint filed by the petitioner, we have directed the Assistant Commissioner of Police, Saidapet Range, Adyar District to conduct an inquiry. The Assistant Commissioner of Police, Saidapet Range, Adyar District, conducted an inquiry and initially made a submission through Additional Public Prosecutor that the 5th respondent is in possession of rental agreements and the genuinity of the same is to be verified.

5. Consequently, all the original agreements, relied on by the 5th respondent, were handed over to the Assistant Commissioner of Police, Saidapet Range, Adyar District, who in turn sent all those documents to the Tamil Nadu Forensic Laboratory for examination and expert opinion. The Forensic Sciences Department, Main Laboratory, Mylapore, Chennai, submitted a report on 19.08.2024, which would reveal that all the rental agreements, produced by the 5th respondent before the Court are bogus and fabricated.



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6. The Assistant Commissioner of Police, Saidapet Range, Adyar District, filed a status report based on the investigation. On account of dispute between the 5th respondent and petitioner, criminal complaints are filed. The Assistant Commissioner of Police, Saidapet Range, Adyar District, has stated that the 5th respondent did not produce any evidence for the rent paid by him to the petitioner/ landlord. Further during the course of investigation, Amarnath/ 5th respondent have been having problems regarding vacation of the house for the last 10 years. Both of them have taken turns to file complaint at the Police Station. The Assistant Commissioner inquired other persons, who were staying in the petitioner's house for rental, namely Mr.Anand, and who in turn has stated that the 5th respondent did not pay the rental amount to the petitioner and hence, dispute between the petitioner and the 5th respondent arose very often. On 20.06.2024, the 5th respondent said that he will produce the transaction details because the rent was paid to the Bank Account of the petitioner, but he did not produce any relevant transaction details. The 5th respondent said that the lease agreement was prepared in the presence of two witnesses



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namely, Siva Prakash and Basu. The said Basu went to Odisha, hence, Siva Prakash was interrogated. Siva Prakash said that he and Basu did not sign the agreement but he and Thirunavukkarasu signed in the agreement. The said information is also found to be inconsistent.

7. The original rental agreement, three in numbers, dated 01.11.2021, are submitted by the 5th respondent. The petitioner stated that his signatures in the Rental agreements are forged. Then it was sent for expert opinion through handwriting experts in the Forensic Laboratory at Mylapore. The report of the Forensic Laboratory has been narrated by the Assistant Commissioner of Police in Paragraph No.10 of the Status Report, which reads as under:

“10. It is further stated that the documents handed over to Forensic lab on 04.07.24. The handwriting experts mentioned that the standard signatures have been freely written and they agree in the handwriting characteristics on an inter se comparison showing natural variations. The questioned signatures differ significantly from the standard in the handwriting characteristics. It clearly indicates that the 5th respondent created forged documents and occupied the



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house illegally. Regarding this, petitioner Tr. Madhavan has given a petition and a case was registered in Cr. No.297/2024, U/s. 419, 420, 465, 468, 471 IPC against the Amarnath on 26.08.2024 by Tr. Venkatesan, Sub Inspector of Police and the case was forwarded to the Inspector of Police for the further investigation.”

8. Section 35 of the Advocates Act, 1961, stipulates punishment of Advocates for misconduct. Sub-section (1) states that *“Where on receipt of a complaint or otherwise a State Bar Council has reason to believe that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee”*. Though it seems that the relationship between the petitioner and the 5th respondent is landlord and tenant, the 5th respondent by misusing his position as a lawyer created forged rental agreement and occupied five portions of the building owned by the petitioner. Lawyer enjoys a status in the society. They are expected to maintain good conduct. A Lawyer involved in creation of forged rental agreement is liable to be prosecuted for misconduct under the Advocates Act, 1961, and the Bar Council of India Rules, 1975. The 5th respondent is in occupation of the building belongs to the petitioner and



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running Lawyer Office by abusing his position as a lawyer which caused dis-reputation to the legal profession. The Bar Council has to maintain professional standards and in the event of any complaint of misconduct, actions are to be initiated. In the present case, the actions of the 5th respondent did not stop with the tenant and landlord relationship but it exceeded by creating forged rental agreement by misusing his position as a lawyer and further, a criminal case has also been registered against the 5th respondent in Crime No.297/2024 under Section 419, 420, 465, 468 and 471 of IPC. Therefore, actions at the end of the Bar Council is just and necessary. Since the 5th respondent is making contradictory statements that he had enrolled his name in the State of Andhra Pradesh and running office in Chennai, the Bar Council of India has to verify and initiate all appropriate actions. Since the 5th respondent is a lawyer and involved in creation of forged rental agreement for the purpose of occupying the building owned by the petitioner in the larger extent, this Court is inclined to mould the relief in the present writ petition in order to render complete justice to the parties. Even before the Assistant Commissioner of Police, the 5th respondent has not produced any document to establish that he paid the rent as per his own statement before this Court.



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9. In view of the facts and circumstances, this Court is inclined to pass the following orders:-

(i)The respondents 4 and 6 are directed to proceed with the Criminal Case registered against the 5th respondent in Crime No.297 of 2024 by following the procedures as contemplated in law.

(ii)The 2nd respondent is directed to initiate all necessary and appropriate actions against the 5th respondent under the provisions of the Advocates Act, 1967 and the Bar Council of India Rules, 1975 as the case may be.

(iii)The respondents 4 and 6 are directed to evict the 5th respondent from the premises of the writ petitioner and hand over vacant possession to the petitioner within a period of 48 hours from the date of receipt of a copy of this order.

(iv)The High Court Website order copy uploaded through on-line mode in <http://hcmadras.tn.gov.in> is to be taken by the respondents for the purpose of evicting the 5th respondent.



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10. Accordingly, the writ petition stands **disposed of**. No Costs.

Consequently, connected miscellaneous petitions are closed.

(S.M.S.J.,)

(V.S.G.,J.)

27.08.2024

Index : Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)

(NOTE: Registry is directed to issue the order copy on 28.08.2024.)



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S.M.SUBRAMANIAM, J.

and

V.SIVAGNANAM, J.

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