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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.2745 of 2024
and W.M.P.No.3017 of 2024

T.Dheenadayalan

... Petitioner

Vs.

- 1.The Commissioner of Police
Office of The Commissioner of Police,
Veppery, Chennai 600 007.
- 2.The Joint Commissioner of Police
4th Floor, V-3 Thirumangalam Police Station Complex
Chennai
- 3.The Deputy Commissioner of Police
O/O Deputy Commissioner of Police,
6th Avenue, P Block Anna Nagar,
Chennai 600 040
- 4.The Assistant Commissioner of Police,
O/o The Assistant Commissioner of Police,
Anna Nagar, Chennai 600 040
- 5.The Inspector of Police
Law and Order K-3 Police Station,
Aminjikarai, Chennai 600 030
- 6.V.M.Uma maheshwari
- 7.A. Rajendran



8.P.M. Fathima Beevi

9.Aaisha Parveen

10.V.S.Haleema Parveen

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus, directing the respondent 1 to 5 to provide police protection to the petitioner and his family members based on petitioner's complaint dated 08.01.2024 and 04.02.2024 and consequently direct the 5th respondent take appropriate action against the respondent 6-10 in accordance with law.

For Petitioner : Mr.M.Vijay Anand

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor
for R1 to R5

Mr.S.Ramesh for R6 to R10

ORDER

This writ petition has been filed for a direction to the respondent police to provide police protection to the petitioner and his family members based on the complaint given by the petitioner on 08.01.2024 and to take action against respondents 6 to 10 in accordance with law.

2.When the matter came up for hearing on 07.02.2024, this Court passed the following order:



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This writ petition has been filed seeking for police protection based on the complaint given by the petitioner on 08.01.2024 and 04.02.2024.

2.The petitioner along with others have filed a suit in O.S.No.2057 of 2021 before the XIth Assistant City Civil Court, Chennai against one Uma Maheshwari who is the 6th respondent herein and others. The suit has been filed seeking for the relief of permanent injunction. Pending the suit, I.A.No.3 of 2021 was filed seeking for interim injunction. The XIth Assistant City Civil Court, Chennai by an order dated 12.07.2023 granted the relief of interim injunction in favour of the petitioner and others and restrained the respondents/defendants from interfering or dispossessing the petitioner from the subject property.

3.The grievance of the petitioner is that in spite of this interim injunction order, the respondents/defendants made an attempt to interfere with the possession and enjoyment of the property. Hence, a complaint was given in this regard on 08.01.2024. Thereafter, it is alleged that the rival parties entered into the subject property and caused destruction to the property and therefore, yet another complaint was given on 04.02.2024. Since there was no action on the part of the respondent police, the present writ petition has been filed before this Court.

4.The learned Additional Public Prosecutor on instructions submitted that the complaints given by the petitioner was enquired



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in CSR No.39 of 2024 and CSR No.103 of 2024. Both the CSRs were closed on 20.01.2024 and 06.02.2024 respectively. On the other hand, the complaint given by the 6th respondent herein was acted upon and an FIR has been registered in Crime No.69 of 2024 on 05.02.2024.

5.It is quite curious that In spite of the attention of the police was drawn to the interim order passed by the Civil Court in favour of the petitioner and others, the police have closed the complaint given by the petitioner and have entertained the complaint given by the 6th respondent who was the defendant in the suit and had registered an FIR. The police ought not to have entertained the complaint and if the police considered that there is a civil dispute between the parties, they should have directed the parties to go and get an appropriate order before the Court for police protection. Instead, it was not fair on the part of the respondent police to register an FIR based on the complaint given by the said Uma Maheshwari. Hence, this Court exercise its extraordinary jurisdiction and stays the investigation in Crime No.69 of 2024, until further orders. There shall be a direction to the 5th respondent to file a status report in this case.

6.Post this case under the same caption on 12.02.2024.

3.When the matter came up for hearing today, this Court heard Mr.M.Vijay

Anand, learned counsel appearing on behalf of the petitioner, Mr.A.Damodaran,



learned Additional Public Prosecutor appearing on behalf of respondents 1 to 5 and

Mr.S.Ramesh, learned counsel appearing on behalf of respondents 6 to 10.

4.The learned Additional Public Prosecutor on instructions submitted that the petitioner did not submit any materials before the respondent police and whereas, there were a *prima facie* materials available to show that the 6th respondent is the owner of the property. Therefore, the police did not act upon the complaint.

5.Per contra, the learned counsel for the petitioner by bringing to the notice of this Court, the complaint that was filed on 08.01.2024, submitted that all the materials were placed before the police including the order passed by the Civil Court granting the order of interim injunction in favour of the petitioner and others and also the CCTV footages. The learned counsel submitted that in spite of all the materials being placed before the police, they have come up with a misleading report before this Court.

6.The learned counsel for the 6th respondent submitted that the 6th respondent is the actual owner of the property and that the petitioner and others are making false claim over the property and therefore, they are not entitled for any police protection in this case. The learned counsel further submitted that Civil Court



proceedings are pending before the competent Civil Court and the parties will workout their remedy before the Civil Court and there is no requirement for the police to interfere in this dispute.

7.This Court has carefully considered the submissions made on either side and also the materials available on record.

8.There is no dispute with regard to the fact that the petitioner and five others have filed a suit in O.S.No.2057 of 2021 before the XIth Assistant Judge, City Civil Court, Chennai, seeking for the relief of permanent injunction. The cause of action for filing this suit is that the plaintiffs therein are the absolute owners of the suit property and that the 6th respondent herein and others are interfering with the possession and enjoyment. In this suit, the petitioner and others filed I.A.No.3 of 2021, seeking for an order of interim injunction. This application was allowed by an order dated 12.07.2023 and the Decreetal order and the Suit Schedule Property are extracted hereunder:

DECREETAL ORDER

1.that the petition be and the same is hereby allowed and the Respondents/Defendants, their men, agent(s), servant(s), heir(s), administrator(s), and assign(s) or any one claiming through them either directly or indirectly are hereby restrained from dispossessing the petitioners and also from interfering in the



peaceful possession and enjoyment of the suit schedule property by the Petitioners and their men or agents by way of creating any kind of encumbrance in order to affect petitioner's title to the suit properties till the disposal of the suit.

2.that there be no costs.

Suit Schedule Property

All that piece and parcel of the land and buildings comprised in Paimash No.298, 299, 300 and 301, R.S. No, 70/8 part, Block No.7, T.S.No.37, New Block No.22, New T.S.No.88, T.S.No.90, T.S.No.91 and T.S.No.92 of No.5, Aminjakarai Village, Bearing Door No's 18, 19, 20 and 21, New Door No.646 in Thiruveethi Amman Koil Street, having extent of 8561 Sq.ft, being bounded on the

North By: Thiruveethi Amman Koil Street,

South By: Poonamallee High Road,

East by: Vacant Plot Belong to Dr.Arthanari,

West by: Property belong to Munusamy and others

In all admeasuring 8561.51 Sq.ft or thereabouts and the property is situated within the Sub Registration District of Anna Nagar and Registration District of Chennai Central Central.

9.The grievance of the petitioner is that when there was an order of interim

injunction operating in favour of the petitioner and others, the 6th respondent along



with some other persons was continuously interfering with the possession and was causing damage to the property. It is also seen from the status report filed by the 6th respondent that there are multiple complaints given in this regard and it has been taken note of in the earlier order passed on 07.02.2024. The further grievance of the petitioner is that even after the earlier order was passed by this Court on 07.02.2024, the 6th respondent got into the property on 17.02.2024 and with the help of henchmen was taking away the debris from the property. A complaint was also given in this regard and same also did not evoke any response.

10. In the considered view of this Court, the private dispute between the petitioner and the 6th respondent and others will have to be resolved only before the competent Civil Court. For the present, the police will not get into the adjudication mode. There is an order of interim injunction passed by the competent Civil Court which is in force till today. Therefore, the 5th respondent will only ensure that this interim order passed by the competent Civil Court is not violated by any party. Ultimately, it is left open to the 6th respondent and others to file an appeal or to seek for vacating the interim injunction and workout their remedy before the competent Civil Court. Instead, they cannot take law into their own hands and violate the interim orders passed by the Civil Court. This Court is not entering into the dispute regarding the title over by the property, wherein, the 6th respondent is claiming to



be the absolute owner of the property. That issue is beyond the ambit of this writ petition. For the present, this Court is only concerned about the enforcement of an order of interim injunction passed by the competent Civil Court. If such enforcement requires the interference of the police for maintaining the status quo, to that limited extent, the police can get into the issue. This will effectively prevent the situation going out of hands and leading to a law and order problem. This shall be kept in mind by the 5th respondent as well as the private respondent. Ultimately, depending upon the final orders passed in the Civil Court, the possession and enjoyment of the property can be worked out.

11.This Court had stayed the investigation in Crime No.69 of 2024. In the light of the observations that have been made in this writ petition, it is left open to the 5th respondent to take a decision on the FIR that has been registered.

12.This writ petition is disposed of in the above terms. No Costs. Consequently, connected miscellaneous petition is closed.

19.02.2024

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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N. ANAND VENKATESH, J.

SSR

To

1.The Inspector of Police,
D-1, Triplicane Police Station,
Wallahjah Road,
Chennai – 600 005.

2.The Public Prosecutor,
High Court, Madras.

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and W.M.P.No.3017 of 2024

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