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W.P.No.7436 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order Reserved on	:24.04.2024
Order Pronounced on	:29.04.2024

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.7436 of 2024
and
W.M.P.No.8322 of 2024

1.A.Rajendiran

2.Narmada @ Magaletchoumy

.. Petitioners

/versus/

1.The Inspector General of Registration,
Government of Puducherry,
Puducherry.

2.The District Registrar,
Office of the District Registration Department,
Sakthi Nagar,Saram,
Puducherry-13.

3.The Superintendent of Police,
Office of the Superintendent of Police (North),
Puducherry.

4.The Superintendent of Police(CID),
Office of the Superintendent of Police,
Puducherry.



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5.The State Represented by
The Inspector of Police,
D.Nagar Police Station,
Puducherry.

6.The Sub Inspector of Police,
CBCID Police Station,
Puducherry.

7.R.Krishnan

8.G.Kannan

9.Kasi Anand

10.Navaneetha Krishnan

11.Loganayagan @ Veeramani

12.Veera Gandhi

13.Suguna

.. Respondents

Writ Petition has been filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus to direct the respondents 3 to 6 to initiate action against the respondents 7 to 13, in pursuant to the Directions of the 2nd respondent in and vide proceedings DRP No.3/2015/1096 dated 28.09.2015 confirmed by this Hon'ble Court in W.A.No.491/2020 and in pursuant to the directions issued in Crl.O.P.No.12025/2022.



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For Petitioners :Mr.G.Sankaran, Senior Counsel for
Mr.B.Balavijayan

For Respondents :Mr.K.S.Mohandass, P.P.(Pondy)
for R1 & R3 to R6

Mrs.Hema Sampath, Senior Counsel for
Mr.A.D.Balasubramanian for R7 & R8

Mr.P.Ananda Kumar, GA for R2

ORDER

The writ petitioners are husband and wife. Plot Nos:25-30, measuring to an extent of 7500 sq.ft at Tatanchavady Revenue Village, Pondicherry, was purchased by them in the year 2010. Two different set of allegations are canvassed in this writ petition filed for issuing Mandamus.

2. The first set of allegation is that one Vasantha Kumari, W/o Jayakumar, the vendor of respondent 7 and 8, based on the forged documents claiming title over land in R.S.No.257/1, which, in fact a Municipal Road adjacent to their property, gave a complaint to the revenue authorities and after the enquiry, the Tahsildar, vide proceedings dated 07/09/2012, followed by a revocation order dated 16/03/2015, affirmed that land in R.S.No:257/1 is a



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public Road. Despite the findings of the Thasildar that the land in R.S.No.257/1 is a public road, Vasantha kumari sold it to respondents 7 and 8 on 16/03/2015. The respondents 7 and 8 knowing about the cloud over the title, had purchased it. So they are not bonafide purchasers. Hence, the writ petitioners gave a representation on 19/03/2015 to probe into the illegal registration of the property bearing R.S.No.257/1 by Vasanthakumari in favour of the respondents 7 and 8. The District Registrar, after detailed enquiry, vide proceedings dated 28/09/2015 cancelled the sale deed dated 16/03/2015 and also recommended to initiate criminal prosecution.

3. This order was challenged by Respondents 7 and 8 in W.P.No.33741/2015 and the same was dismissed. Against the dismissal order, the respondents 7 and 8 filed W.A.No.491/2020. The Hon'ble Division Bench taking note of the fact that the civil suit in O.S.No.80/2015 is pending regarding the title dispute, while so, the registering authority has no right to cancel the sale deed dated 16/03/2015, held that the parties should wait for the outcome of the civil suit. Till such time, no right, title or interest shall flow to any party. Since the Division Bench set aside only the portion of the order pertaining to cancellation of sale deed, it confirmed rest of the order,



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particularly, the direction to initiate criminal proceedings. The writ petitioners gave a representation to initiate prosecution as contemplated under Section 83 of the Registration Act. Till date, no action was taken by 4th respondent in this regard. Therefore, he prays for direction to the 2nd respondent to initiate action as per the order dated 28.09.2015.

4. The second set of allegation is that, the respondents 9 to 13, without any right based on forged documents, attempted to trespass into their property, questioning the validity of the writ petitioners' sale deed dated 23/09/2010. During the month of April 2022, an attempt was made by respondents 11 to 13 to break open the lock and key of the iron gate. Based on the complaint dated 21/04/2022, the fifth respondent enquired the parties and in the course of the enquiry, it has come to the knowledge of the writ petitioners that General Power of Attorney deed dated 11/11/2014 for their property has been forged and based on the forged general Power of Attorney, two sale deeds have been executed in favour of the 13th respondent. For not taking action on his complaint dated 21/04/2022, the writ petitioners have filed CrI.O.P.No.12019 of 2022 to take appropriate action on his complaint and also sought for police protection in CrI.O.P.No.12025/2022. These petitions were disposed with



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certain directions to the respondent police. The grievance of the writ petitioners is that those directions were not complied by the police and therefore, every day they are facing threat.

5. Mrs.Hema Sampath, the learned Senior Counsel appearing for the respondent 7 and 8 submitted that the attempt of the writ petitioners to club two different issues between two different persons and regarding two different properties is to mislead the Court. Further, the issue regarding the character of the property in R.S.No.257/1 is subjudice and there is specific observation by the Hon'ble Division Bench restraining the parties from claiming any right or title over the property, till the disposal of the suit. Further, it is also contended that, the writ petitioners title over the property itself is under cloud and subject matter of the suit in O.S.No.1029/2011 filed for declaration and recovery of possession by the respondents 11 to 13 and one Kalaiselvan, is pending on the file of II Additional District Munsif, Pondicherry. Therefore, the writ petition for issuing Mandamus deserves to be dismissed.

6. The Station House Officer of D.Nagar Police Station, Puducherry has filed a counter narrating the action taken on the direction of the High Court in



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CrI.O.P.No.12019/2022 and CrI.O.P.No.12025/2022 and on the complaint of

the writ petitioners, dated 21/04/2022. From the counter, it is made clear that, in respect of plot Nos.25 to 30 measuring to an extent of 7500 sq.ft. writ petitioners claim title through one Philominammal and her legal heirs. Whereas, Kasi Anand (9th respondent) claims title through the power agent of the legal heirs of Ramalinga Gramini. Regarding the title, a civil suit is pending. In respect of the land in S.No.257/1 adjacent to plot Nos.25 -30, the counter says that, dispute exists between the writ petitioners and one R.Krishnan (7th respondent) and the subject matter of the suit in O.S.No.80/2015 is pending. While so, on 09/02/2024, the first writ petitioner Mr.A.Rajendiran through his men removed the cement slab fencing made by Krishnan and in this connection, a complaint received from Krishnan on 10/02/2024. When Rajendiran called for enquiry, he participated and given an undertaking that he will work out his remedy through the civil Court. Recording the undertaking, both the parties were advised not to create law and order problem, but to resolve the dispute through Court. Despite the undertaking, the writ petitioners are carrying out the construction work in the disputed land bearing plot Nos: 25 -30. Krishnan has reported this matter to the police through a complaint dated 29/04/2024. The parties were called and advised again not to create any law and order problem



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and advised to seek remedy before the Court.

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7. As observed earlier, for two different set of facts and cause of action, for the reason best known, the writ petitioners have clubbed both the issues in one writ petition and sought for Mandamus. However, on perusal of the records and the counter filed by the 5th respondent, it is obviously clear that this writ petition is an attempt to bypass the procedure established under law and instead of establishing the title in the pending suit, the writ petitioners have resorted to invoke the extraordinary jurisdiction of this Court under Article 226 of Constitution of India.

8. When the title is in dispute and the Division Bench has earlier specifically directed the parties to wait for the outcome of the civil dispute, the writ petitioners by clubbing the second incident with the first incident, which is no way connected to each other has couched the prayer linking both the issues and want to give a criminal colour to the civil dispute. In fact, from the counter of the 5th respondent, it is seen that the writ petitioners, after giving an undertaking to the police that they will not cause any law and order problem, had indulged in act of violence by removing the slab fencing made by the 7th



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respondent.

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9. In view of this Court, the Writ Petition is clear abuse of process of law, filed with an intention to short circuit the due process of law. Hence, this Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

29.04.2024

Index:yes/no

Neutral Citation:yes/no

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DR.G.JAYACHANDRAN,J.

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delivery Order made in

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