



WP.No.8269 of 2024

In the High Court of Judicature at Madras

**Reserved On :
28.3.2024**

**Delivered on :
02.4.2024**

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.8269 of 2024
& WMP.Nos.9225 & 9226 of 2024

Mrs.Jayashree

Vs

...Petitioner

- 1.The Commissioner of Police,
Police Commissionerate,
Vepery, Egmore, Chennai.
- 2.The Deputy Commissioner of
Police, Block 10, Sivan Nagar
Police Colony, Tondiarpet,
Chennai-10.
- 3.Mr.Krishna Raj, Inspector
of Police, H5 Police Station,
Tondiarpet, Chennai-81.
- 4.The Secretary, Bar Council of
Tamil Nadu & Puducherry,
High Court Campus, Chennai-104.
- 5.Mrs.R.Vathani
- 6.Mr.G.Punniyakodi
- 7.Mr.D.Raja
- 8.Mr.P.Rajendran

(R6 to R8 were suo motu impleaded as
per order of court dated 26.3.2024
by NAVJ)

...Respondents

PETITION under Article 226 of The Constitution of India praying



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for the issuance of a Writ of Mandamus forbearing the 3rd respondent from interfering in the suit scheduled property upon which civil disputes under O.S.Nos.2248/2023, 2907/2023 and 3626/2023 are pending before the learned Second Assistant City Civil Court, Chennai with the assistance of so-called lawyers.

For Petitioner	:	Mr.P.Vijendran assisted by Ms.M.S.Sindhuza & Ms.K.Manikuyil
For R1 to R3	:	Mr.A.Damodaran, APP
For R4	:	Mr.C.K.Chandrasekar
For R5	:	Mr.D.Selvaraj

ORDER

This is a petition filed by the petitioner seeking to forbear the third respondent from interfering with the civil disputes pending between the parties before the competent civil court.

2. When the matter came up for hearing on 26.3.2024, this Court passed the following order :

"This writ petition has been filed to forbear the 3rd respondent from interfering with the civil dispute between the parties pending in OS No.2248 of 2023 on the file of II Assistant, City Civil Court, Chennai.

2. When the matter was taken up for hearing, the learned Additional Public Prosecutor on instructions submitted that the 3rd respondent received the complaint in CP No.6995 of 2023



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dated 29.11.2023. That apart, CSR No.674 of 2023 dated 31.12.2023 was also taken on file. Both the Current paper and CSR were enquired and closed.

3. On going through the materials available on record, it is seen that the petitioner is the wife of one K.Prasad. The husband of the petitioner is said to be working abroad. There was some dispute between the petitioner and her in-laws. The petitioner apprehended that her possession will be disturbed by her in-laws and the subsequent purchaser, who is the 5th respondent in this writ petition. Hence, the petitioner filed a suit in OS No.3626 of 2023 on the file of II Assistant Civil Judge, Chennai, seeking for the relief of permanent injunction. Pending the suit, an application was filed in IA No.5 of 2023, seeking for an order of interim injunction. The Court below after hearing all the parties concerned through a fair and final order dated 12.03.2024 granting an order of interim injunction in favour of the petitioner and restrained the 5th respondent, his men or agents or any one claiming under him from interfering with the possession of the petitioner. It is stated by the learned counsel for the petitioner that the order copy was received only on 18.03.2024. In the affidavit filed in support of the writ petition, at Paragraph 6, it is stated that the 5th respondent approached the 3rd respondent along with some lawyers and gave some representation. The 3rd



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respondent seems to have contacted the counsel who appeared for the petitioner in the Trial Court and the counsel was not able to immediately attend the call, since he was engaged in the High Court and was arguing some case. The further allegation made is that the 5th respondent along with the help of Advocates and with the assistance of the police had forcibly entered into the property and taken over possession. To substantiate the same, the learned counsel for the petitioner brought to the notice of this Court the photographs that are available from Page Nos.119 to 121 of the typed set of papers. The learned counsel for the petitioner submitted that the petitioner has been thrown away from the property, inspite of the interim order operating in favour of the petitioner. It was contended that this incident had taken place with the assistance of the police. Therefore, the present writ petition has been filed before this Court.

4. The allegations that have been made in the affidavit and the materials that have been placed before this Court, prima facie shows that there has been a total disregard shown to the interim order granted by the II Assistant, City Civil Court, Chennai. In view of the same, this Court is inclined to exercise its jurisdiction under Section 10 of the Contempt of Courts Act, 1971. This Court has been vested with sufficient powers under Section 10 of the Act to punish for Contempt of Court even with respect to the



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Contempt of Courts Subordinate to the High Court. In a case of this nature, this Court has to exercise such a jurisdiction to ensure that these incidents do not happen in future. The photographs that have been placed before this Court shows that persons claiming themselves to be Advocates were present near the property at the time of the incident. The Advocates are supposed to perform their duty only before the Court and they are not supposed to go along with their clients to take forcible possession of the property. Such conduct on the part of the Advocates demeans the entire profession and at some stage, stringent action has to be taken in this regard. It is not the first time where this Court is noticing such an incident. In spite of such stringent measures taken by this Court, this attitude on the part of some Advocates continues which has to be dealt with more severity.

5. The learned counsel for the petitioner submitted that the Advocates who were present at the time of the incident are Mr.G.Punniyakodi, D. Raja and Mr.P.Rajendran. In view of the same, Mr.G. Punniyakodi, D.Raja and Mr.P.Rajendran are suo-motu added as respondents 6 to 8 in this writ petition.

6. The 3rd respondent, 5th respondent and respondents 6 to 8 shall be present before this Court on 28.03.2024 at 2.15 p.m. The learned Additional Public Prosecutor shall ensure the presence of respondents 3 and 5. The learned



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counsel for the petitioner is permitted to serve notice on respondents 6 to 8 and inform them to be present before this Court on 28.03.2024 at 2.15 p.m.

7. Post this on 28.03.2024 at 2.15 p.m."

3. Pursuant to the said order, the matter is listed today for hearing. Heard the learned for the petitioner, the learned Additional Public Prosecutor appearing for respondents 1 to 3, the learned Standing Counsel appearing for the fourth respondent and the learned counsel appearing for the fifth respondent. At the time of hearing, respondents 3 and 5 to 8 are also present before this Court.

4. The third respondent filed a status report before this Court, the relevant portions of which are extracted as hereunder :

"2. It is submitted that on 29.11.2023, the 5th respondent/R.Vadhani had lodged a complaint before the Commissioner of Police, Greater Chennai against the petitioner, Amudha, who is a mother in law of the petitioner and Mr.Kumar, who is a father in law of the petitioner to take necessary action against the above said three persons who had cheated them.

3. It is submitted that the mother in law of the petitioner had sold the property to the 5th respondent for the sale consideration a sum of



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Rs.1,48,00,000/-. Subsequently, after registration of documents, the petitioner and family members refused to vacate the premises and hand over the possession and whenever the 5th respondent asked to hand over the possession she was threatened and abused by the petitioner and her family members.

4. It is submitted that the complaint lodged before the Commissioner of Police, Greater Chennai and the same was assigned C.No.6995 of 2023 and the same was forwarded to Deputy Commissioner of Police, Washermenpet in R.C.No. 585 of 2023 dated 29.11.2023 and it was further forwarded to Assistant Commissioner of Police, Thiruvottiyur in R.C.No.216 of 2023 dated 01.12.2023 and finally it has been forwarded to jurisdictional police/3rd respondent, who assigned R.C.No.26 of 2023 dated 05.12.2023.

5. It is further submitted that based on the complaint lodged by the 5th respondent, both the petitioner and 5th respondent was called for enquiry by the 3rd respondent and summons were issued by the 3rd respondent for enquiry and it has been returned as door locked. Subsequently, the complaint was closed as civil in nature due to the pendency of the civil suit between petitioner/ Jayashree and 5th respondent.

6. It is further submitted that on 31.12.2023, petitioner had lodged a complaint against the 5th respondent and his family



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members stating that 5th respondent/Vathani, Rathinasamy, Nandhini and five other persons came to the house of the petitioner threatened and forced them to vacate the house. Based on that incident, the 3rd respondent assigned C.S.R.No. 674 of 2023 dated 31.12.2023 and thereafter the respondent police called both the parties for enquiry through phone. Subsequently, both the parties did not appear for enquiry. Hence, CSR.No. 674/2024 was closed by the 3rd respondent on 03.1.2024.

7. It is further submitted that on 21.3.2024 about 5.30 PM the Control Room received call from the petitioner and the same was intimated by the Control Room to the Gypsy Patrol Vehicle the Head Constable -36 917 Mr.Peter and the Gypsy Driver ARPC - 53051 Mr.Iyyappan had immediately spoken to the petitioner and went to the place of occurrence and enquired at the spot.

8. It is further submitted that petitioner at the time of occurrence she was not present at home and she was in Cuddalore in her father's place and the patrol police warned the advocate not to take possession without any proper order from the court and further directed them to leave the house of the petitioner immediately and the same was also entered in our station patrol Gypsy's General Diary Entry at about 18.05 hours dated 21.3.2024."



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5. The petitioner filed a suit in O.S.No.2248 of 2023 on the file of the City Civil Court, Chennai against one Mrs.Amudha, who is none other than the mother in law of the petitioner seeking the relief of perpetual injunction. The suit property is described as 1150 Sq.Ft. of land and the superstructure constructed thereon. In addition, the petitioner, in her capacity as the power of attorney agent of her husband - Mr.K.Prasath, again filed O.S.No.2907 of 2023 on the file of the City Civil Court, Chennai against all the other co-sharers in the subject property seeking for the relief of declaration that the subject property is a joint family property and for the relief of partition and separate possession of 1/5th share in the subject property.

6. The petitioner, in her capacity as the power of attorney agent of her husband - Mr.K.Prasath, also filed one more suit in O.S.No.3626 of 2023 seeking for the relief of declaration to declare the sale deed dated 27.3.2023 executed by her in-laws in favour of the fifth respondent as null and void and non est in the eye of law. In this suit, the petitioner filed I.A.No.5 of 2023 seeking for the relief of interim injunction restraining the fifth respondent, her men, agents, servants or anyone claiming through her, from interfering with the peaceful possession and enjoyment of 450 sq.ft., of the house in the occupation of the petitioner in the first floor of the subject property.



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This application was contested and an order of interim injunction has been granted in favour of the petitioner by a fair and final order dated 12.3.2024.

7. The conclusion in the fair order dated 12.3.2024 passed by the Court below in I.A.No.5 of 2023 in O.S.No.3626 of 2023 is extracted as hereunder :

"In the result, this petition is allowed as follows :

1. The 3rd respondent, his men or agents or anybody claiming under him is restrained by an order of ad-interim injunction from interfering with the possession of the petitioner with regard to 450 sq.ft of house in the first floor only, which was more fully described in the petition mentioned property till the disposal of the suit.

2. It is made clear that with regard to remaining extent of the suit schedule property, no injunction is prayed by the petitioner. Hence, the same is not granted."

8. Apart from I.A.No.5 of 2023, the petitioner also filed I.A.No. 12 of 2024 in the very same suit seeking for the relief of interim injunction with respect to the entire subject property consisting of 2,250 sq.ft of superstructure, in total, in the ground and two floors. In I.A.No.12 of 2024, notice has been ordered and the same is



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9. The main grievance expressed by the petitioner is that in spite of an order of interim injunction dated 12.3.2024 granted in I.A.No.5 of 2023 in her favour in respect of 450 sq.ft of the house available in the first floor of the subject property and in spite of filing another application in I.A.No.12 of 2024 seeking for an order of interim injunction for the entire subject property, the fifth respondent managed to barge into the subject property forcefully with the help of police and advocates.

10. The status report filed by the third respondent shows that both the petitioner as well as the fifth respondent had given complaints against each other and that they were inquired into and closed. Thereafter, on 21.3.2024, the Control Room received a phone call from the petitioner and immediately the police patrol went to the spot. They found that the petitioner was not present in the spot and further came to understand that she was staying with her parents at Cuddalore. In view of the same, they warned the persons present in the spot, which included an advocate, not to take forcible possession of the subject property without any order of the court. An entry was also made in this regard in the General Diary on 21.3.2024 at about



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18.05 hours.
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11. It is, therefore, clear from the above that an attempt has been made to take possession of the subject property. This Court is not required to go into the right or title over the subject property in this writ petition considering its limited scope. The only issue to be gone into is as to whether the police had interfered in a civil dispute and as to whether the advocates had gone overboard by identifying themselves with the client and were instrumental in taking over possession of the property.

12. In so far as the police is concerned, it is clear from the status report filed by the third respondent that they do not intend to interfere with the civil disputes pending between the parties. The stand taken by the third respondent is substantiated by the closure of the inquiry in C.S.R.No.674 of 2024 on 03.1.2024. Thereafter, they went to the spot only based on the phone call received from the petitioner and what happened in the spot has also been entered in the general diary. The police had merely warned the persons present in the spot including an advocate not to take possession of the subject property.



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13. The next question to be gone into is as to whether the advocates had indulged in taking over possession of the subject property. Respondents 6 to 8, who are the advocates on record for the fifth respondent before the City Civil Court in O.S.No.3626 of 2023, are present before this Court. It is clarified that except the seventh respondent, the other two advocates did not go to the spot on 21.3.2024. The seventh respondent has stated that his client namely the fifth respondent had called him to the spot since she had no one else to help her and that therefore, he went to the spot. He has further stated that he never indulged in taking over forcible possession of the subject property. He has also undertaken that the instant case has taught him a lesson and that he will never appear for a client in any other place except the court.

14. The learned Standing Counsel appearing for the fourth respondent has submitted that a complaint has been received from the petitioner as against the seventh respondent and that the same is under scrutiny.

15. The learned counsel appearing for the fifth respondent submits that there is an order of interim injunction in favour of the petitioner only with respect to 450 sq.ft of the house available in the



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first floor of the subject property, which is a portion in the first floor and that in so far as this portion is concerned, no attempt has been made to forcibly take over possession or prevent the petitioner from enjoying the subject property. He has further stated that the fifth respondent purchased the entire property and except the petitioner, possession has been handed over by all the other co-owners of the subject property and that however, the petitioner had managed to lock the main gate, as a result of which, the fifth respondent is not able to access the other portions of the subject property in the ground floor, a portion in the first floor and the second floor.

16. Initially, during the course of arguments, the learned counsel appearing for the fifth respondent has submitted that the main gate was locked by the petitioner, that the petitioner is not in station, that therefore, the fifth respondent is not able to enter the subject property and that however, after the matter was reserved for judgment, he made a mentioning and stated that the husband of the fifth respondent and one of their daughters are in possession of the ground floor.

17. If the main gate had been locked by the petitioner and hence, the fifth respondent was not able to enter the subject



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property, it is not known as to how the fifth respondent and her family ultimately got into the property and are in possession of the ground floor. If the petitioner had not opened the main gate, obviously, the fifth respondent should have taken possession of the subject property by forcibly entering the subject property. There is no other explanation as to how the fifth respondent took over possession of the subject property.

18. There is no need for the seventh respondent to be present in the spot on 21.3.2024 and the status report filed by the third respondent would show that the seventh respondent was warned that he should not indulge in taking over possession without a proper order from the court. This incident should teach a lesson to the seventh respondent and other advocates, who try to identify too much with their clients. Advocates are primarily officers of courts and what is expected of them is to do their best to safeguard the rights of their clients in courts. The role of an advocate should not cross the boundaries of courts and an advocate is not expected to stand with the client in a police station or a property. If an advocate tries to identify too much with the client, invariably he will land up in trouble. Keeping a distance from the client will augur well to uphold the stature of an advocate.



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19. For an advocate, it is another case and he should not be under the impression that this is the only case he is going to conduct during his entire professional life. The seventh respondent, who is present before this Court, undertook that he will not indulge in any such ventures in future and that he will confine his role as an advocate only within the precincts of courts. In view of the same, this Court is inclined to pardon the seventh respondent.

20. Since respondents 6 and 8 were not even present in the subject property on 21.3.2024, there is nothing against them to proceed further.

21. The police have taken a stand that they will not interfere with the civil disputes pending between the parties. This stand taken by the police is hereby recorded.

22. The petitioner has already moved an application in I.A.No.12 of 2024 in O.S.No.3626 of 2023 seeking for an order of interim injunction with respect to the entire subject property. This application shall be decided by the Second Assistant Judge, City Civil Court, Chennai after affording an opportunity to both the parties and



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final orders shall be passed on or before 26.4.2024. Depending upon the order that would be passed by the City Civil Court, Chennai in the present application, possession over the subject property can be worked out. However, it is made clear that in so far as 450 sq.ft., of the house available in the first floor of the subject property is concerned, which covers a portion in the first floor, there is already an order of interim injunction granted in favour of the petitioner in I.A.No.5 of 2023 on 12.3.2024 and therefore, the possession and enjoyment of the petitioner shall not be interfered with till this order is in force.

23. The writ petition is disposed of in the above terms. No costs. Consequently, the connected WMPs are closed.

02.4.2024

Neutral Citation : Yes
Speaking Order : Yes

To

- 1.The Registrar, City Civil Court,
Chennai.
- 2.The Commissioner of Police,
Police Commissionerate,
Vepery, Egmore, Chennai.
- 3.The Deputy Commissioner of
Police, Block 10, Sivan Nagar
Police Colony, Tondiarpet,
Chennai-10.
- 4.The Inspector of Police, H5 Police Station,



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- Tondiarpet, Chennai-81.
- 5.The Secretary, Bar Council of
Tamil Nadu & Puducherry,
High Court Campus, Chennai-104.
- 6.The Public Prosecutor, High Court, Madras.

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