



WP.Nos.13654 and 13639 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 26.06.2024

CORAM

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

WP.Nos.13654 and 13639 of 2024

and

W.M.P.Nos.14821 and 14803 of 2024

L.Devanathan

... Petitioner  
(WP.No.13654 of 2024)

S.Sudhakar

... Petitioner  
(WP.No.13639 of 2024)

Vs.

1. Tamilnadu State represented by  
Divisional Executive Magistrate and  
Revenue Divisional Officer, Cuddalore.
2. Tamilnadu State represented by  
The Superintendent of Police,  
Cuddalore District, Cuddalore.
3. Deputy Superintendent of Police,  
Panruti, Cuddalore District.
4. The Inspector,  
Nellikuppam Police Station,  
Nellikuppam Cuddalore District.
5. S.Prabhakaran
6. P.Prabhavathi
7. P.Balu
8. Pulikodi
9. Ravi

... Respondents  
(in both WPs')

**PRAYER in WP.No.13654 of 2024 : Writ Petition filed under Article**



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226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to quash the proceedings of the 1<sup>st</sup> respondent under M.C.No.261/2024 dated 07.05.2024 based on the information of the 4<sup>th</sup> respondent in the face of pendency of Civil Suits pending between the petitioner and respondents 5 and 6 in relating to the subject land in O.S.No.92 of 2004 on the file of Additional District Munsif, O.S.No.4 of 2012 on the file of Additional Subordinate Court-I, Cuddalore and disposal of O.S.No.8 of 2007 on the file of Additional Subordinate Court-I, Cuddalore and consequently, direct the respondents 2 to 4 not to pester the petitioner to handover possession of piece of land involved in afore stated civil suits to the respondents 5 to 8 and thereby not to interfere with the peaceful possession of the petitioner over the subject piece of land.

**PRAYER in WP.No.13639 of 2024:** Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to quash the proceedings of the 1<sup>st</sup> respondent under M.C.No.261/2024 dated 07.05.2024 based on the information of the 4<sup>th</sup> respondent in the face of pendency of Civil Suits pending between the petitioner and respondents 5 and 6 in relating to the subject land in O.S.No.92 of 2004 on the file of Additional District Munsif, O.S.No.4 of 2012 on the file of Additional Subordinate Court-I, Cuddalore and disposal of O.S.No.8 of 2007 on the file of Additional Subordinate Court-I, Cuddalore and to restrain the respondents 2 to 4 not to pester the petitioner to handover possession of piece of land involved in afore stated civil suits to the respondents 5 to 8 and thereby not to interfere with the peaceful possession of the petitioner over the subject piece of land.



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For Petitioner : Mr.R.Rajavelavan

For Respondents : Mr.K.M.D.Muhilan  
Government Advocate(Crl.Side)  
for R1 to R4

R5 to R8 Service awaited.

R9 Tapal Returned

### **COMMON ORDER**

In view of dispute between two groups in the village, the first respondent has issued notice under Section 111 of Cr.P.C calling upon members of both the groups to participate in the enquiry and execute bond for Rs.25,000/- valid for one year to show cause why they should not be compelled to execute a bond for Rs.25,000/- to maintain peace.

2. The learned counsel appearing for the petitioners for the members of the 'A' party submits that there is no semblance of threat or disturbance with public peace due to property dispute between the group headed by Devanathan and the other group headed by Prabhakaran and Prabhavathi. The suit is pending on the file of the District Munsif Court, Cuddalore, since 2004 and followed by two more suits instituted in the year 2007 and 2012. While so, the impugned order dated 07.05.2024



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calling upon both the parties to execute the bond to show cause why bonds should not be executed tantamounts to interfering with the administration of Civil Justice while executing. Further, the learned counsel submits that the show cause notice clearly indicates that the Executive Magistrate has preconcluded his mind calling upon the petitioner to execute a bond for Rs.25,000/- valid for one year which is contrary to the directions issued by this Court in ***P.Sathish @ Sathish Kumar V. State Rep by, The Inspector of Police Law & Order, H-4, Korrukkupet Police Station, Chennai-600 021 and others.***

3. The learned Government Advocate (Crl.Side) submits that pursuant to the pendency of the civil suit on 07.04.2024, member of one group barged into the land leading to complaint of theft and criminal trespass and damage to the property. The said complaint was given by one Devanathan who is the petitioner in W.P.No.13654 of 2024. The complaint taken on file in Cr.No.185 of 2024 for the offences under Sections 147, 294(b), 323, 506(i) IPC and counter complaint in Cr.No.186 of 2024 for the offences under Sections 294(b), 506(i) IPC and Section 3(1)(r) of the Scheduled Caste and the Scheduled Tribes(Prevention of Atrocities) Act, 2015. The said circumstances refer the registration of CSR on the file of Nellikuppam Police Station. Notice



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under Section 111 of Cr.P.C was issued calling upon both the parties to show cause why they should not be asked to execute a bond. Therefore, there is no violation of the provisions of law.

4. The learned counsel for the petitioner submits that while initiating the proceedings under Section 107 of Cr.P.C initially there must be a preliminary enquiry and thereafter proper notice under the respective provisions to pass order for executing bond, whereas in this case even while calling upon the parties for enquiry the first respondent has pre-determined the conclusion.

5. This Court on perusing the record finds that the pendency of civil suit between the parties is not a bar for the executing Magistrate to exercise his power under Chapter VIII of Cr.P.C. However, while exercising the power, the executing Magistrate has to follow the procedures contemplated under the Act.

6. In this case, this Court finds that in the course of conducting enquiry under Section 107 of Cr.P.C, notice was issued under Section 111 of Cr.P.C, directing the parties to show cause why they should not be compelled to execute bond, before hearing the parties, the proposed action been disclosed in the impugned notice. Therefore, it suffers from illegality. Hence, the impugned notice stands quashed with liberty to the



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first respondent to proceed in accordance with law if required by issuing fresh notice.

7. In view of the above, these writ petitions are allowed. No order as to costs. Consequently, the connected miscellaneous petitions are closed.

Vv

26.06.2024

To

1. The Divisional Executive Magistrate and Revenue Divisional Officer, Cuddalore.
2. The Superintendent of Police, Cuddalore District, Cuddalore.
3. The Deputy Superintendent of Police, Panruti, Cuddalore District.
4. The Inspector, Nellikuppam Police Station, Nellikuppam Cuddalore District.

**Dr.G.JAYACHANDRAN,J.**

Vv



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