



WP.No.20485of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

WP.No.20485 of 2023

K.Rajaram

... Petitioner

Vs.

1. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.

2. The Commissioner of Police,
Salem City,
Sankagiri Main Road,
Line Medu,Salem-636 006.

3. The Inspector of Police,
Kannankurichi Police Station,
Salem-636 008.

4. M/s. REPCO Home Finance Ltd.,
Rep by its authorized Officer,
No.343, Thangampattu Maligai,
1st Floor, Co-operative Building,
Bazaar Street, Salem-636 001.

5. S.Vinitha

... Respondents



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PRAYER : Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondents 1 to 3 to consider the petitioner's representation dated 23.02.2023 and to restore the possession of the property land and building bearing Plot.No.20 measuring an extent of 1350 sq.ft comprised in Re-survey No.253/4, situated at Kannankurichi Village, Salem Taluk and District in favour of the petitioner.

For Petitioner : Mr.MA.Gouthaman

For Respondents : Mr. S.Udaya Kumar
Government Advocate (Crl.Side)
for R1 to R3

: Mr.E.OM Prakash, Senior Counsel
for Mr.A.Ilangovan for R4

: Mr.M.R.Thangavel for R5

ORDER

The petitioner herein is the erstwhile owner of the peace of land measuring 1350 sq.ft at Kannankurichi Village, Salem is before this Court alleging that he was forcibly dispossessed from the land by the 5th respondent and their henchmen and therefore he gave a complaint to the police on 23.02.2023 to take action and restore possession back to him, the same has been not acted upon. Hence, writ petition seeking mandamus to direct the respondent police to act on his representation and put him in possession of the property.



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2. The respondents on notice appears before this Court through their respective counsel.

3. The learned Senior counsel appearing for the 4th respondent herein/ REPCO Bank submits that the petitioner herein who borrowed loan from REPCO Bank for constructing building had not utilized the loan amount for the purpose for which it was sanctioned and also he failed to repay the loan. Hence, following due process of law , the property was put to auction and sale certificate was issued to the auction purchaser as early as 31.03.2010 and possession was handed over. Thereafter, there is no brevity between the bank and the borrower of the property. According to the learned Senior counsel appearing for the 4th respondent herein/ REPCO Bank, the recovery proceeding for the due payable by the petitioner herein has reached the logical end on the disposal of writ petition filed by the petitioner herein in WP.No.25815 of 2018 dated 03.12.2018.

4. As far as the learned counsel for the 5th respondent stated that the 5th respondent is the auction purchaser under sale certificate dated 31.03.2010, the possession was taken in the year 2013, since then he



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had been in possession of the property. On 23.02.2023, the petitioner herein try to forcibly entered upon the property and remove them. In this regard, the husband of the 5th respondent has given a complaint to the respondent police and registered the case assigned as CSR.No.21 of 2023. While so, the present petition is filed as if the petitioner is in continuous possession of the property and he had been forcibly dispossessed.

5. The learned Counsel appearing for the petitioner has replied that after issuance of the sale certificate, the petitioner has filed petition before the DRAT and the writ petitions to safeguard his property from being alienated through Court auction. While so, earlier an attempt was made to take possession by this petitioner, complaint was given to the respondent police and registered the case in Cr.No.62 of 2013. While so, after ten years, the 5th respondent, her husband and others had forcibly entered upon the premises removed the belongings. In this connection, the petitioner immediately called the police through 100 and lodged the complaint, but no action been taken which has forced to file the writ petition seeking restoration of possession of property.



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6. The learned counsel for the 5th respondent states that it was an attempt by the petitioner herein on that day to forcibly take the possession and hence, the complaint dated 24.02.2023 been lodged and the same been registered in CSR.No.21 of 2023. He also says that the photograph clippings regarding the criminal trespass committed by the petitioners and others. Therefore, it is appropriate for the police to enquire both the complaints and if any commission of cognizable offence is made out to file final report accordingly as against the aggressors following the 566 of Police Standing Order

7. On considering the facts of the case and the submissions, this Court is of the view that restoration of possession by issuing mandamus cannot be granted in this case of this nature. While record indicates that the property of the petitioner sold in Court auction on 31.03.2010 and possession taken in the year 2013. Therefore, the prayer as such in the writ petition is not sustainable, writ petition is liable to be dismissed.

8. However, this Court is also conscious of the fact that on 23.02.2023, an incident had taken place, wherein the petitioner as well as the husband of 5th respondent has given complaint to the police, but, till



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date, it appears that the police has not taken the complaints for enquiry.

The photographs annexed along with the writ petition also indicates that the the congregation of persons in the disputed premises removing articles.

9. With this observation, writ petition is dismissed. No order as to costs.

19.07.2024

Vv

To

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Mylapore, Chennai-600 004.
2. The Commissioner of Police,
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Sankagiri Main Road,
Line Medu,Salem-636 006.
3. The Inspector of Police,
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4. The Authorized Officer,
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No.343, Thangampattu Maligai,
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Dr.G.JAYACHANDRAN,J.

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