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W.P.Nos.24565 & 24917 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.09.2024

Pronounced on: 27 .09.2024

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

W.P.Nos.24565 & 24917 of 2024

& W.M.P.No.27282 of 2024

W.P.No.24565 of 2024

Nelson Manickam Salai Lorry, Van,
Tempo Owners' Association,
Registration No.271 of 1988,
Rep. by its President, V. Sridhar,
Old No.96/ New No.104/B,
Nelson Manickam Road,
Aminjikarai, Chennai 600 029.

.... Petitioner

/versus/

1. The Commissioner of Police,
Office of the Commissioner of Police,
Vepery, Chennai

2. The Inspector of Police (Law and Order),
K-3 Aminjikarai Police Station,
Chennai.

3. P.S.Theleep Kumar,

4. A.M.P.A.Valliammai Achi,

5. A.P.L.Nachammai,

6. A.M.P.A.Palaniappan

.... Respondents



W.P.Nos.24565 & 24917 of 2024

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to provide police protection to the petitioner society members to use the property situated at Door No.104/2 (96), Nelson Manickam Road, Aminjikarai, Chennai 600 029 based on the representation dated 07.06.2024 given by the petitioner society in accordance with law.

For Petitioner : Mr.M.Jai Kumar.

For R1 & R2 : Mr.S.Udaya Kumar.
Government Advocate (Crl.Side)

W.P.No.24917 of 2024

1. A.M.P.A.Palaniappan

2. A.P.L.Nachammai,

3. A.M.P.A.Valliammai Achi,

Represented by their Power Agent,
P.S.Theleep Kumar.

... Petitioners

/versus/

1. The Commissioner of Police,
Greater Chennai,
Vepery,
Chennai – 600 007.

2. The Deputy Commissioner of Police,
Chennai Anna Nagar, K-4 Police Station Campus,
Anna Nagar, Chennai – 600 040.



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3. The Assistant Commissioner of Police,
Anna Nagar Range,
K-4 Police Station Campus,
Anna Nagar, Chennai – 600 040.

4. The Inspector of Police (L&O),
K-3, Aminjikarai Police Station,
Aminjikarai,
Chennai – 600 029.
(Crime No.332 of 2024).

5. V.Sridhar.

6. Jagadeesan.

7. Murugan.

... Respondents 1 to 7

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondent Nos.1 to 4 to give police protection to the petitioner's land in Vada Agaram Village, Aminjikarai, Chennai – 600 029 comprised in T.S.No.4/1, 4/4, 4/9, 4/12, 4/13 & 4/14, Block No.3, Ward No.1, of Vada Agaram Village, Aminjikarai Taluk, Chennai – 600 029 to an extend of 36,500 sq.ft for the purpose of constructing the school building based on my complaint dated 06.08.2024 on such terms and conditions.

For Petitioners : Mr.Shanath Chandran,
for Mr.K.G.Senthil Kumar.

For R1 to R4 : Mr.S.Udaya Kumar.
Government Advocate (Crl.Side)



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COMMON ORDER

The above two writ petitions are filed for identical reliefs seeking police protection for the land at Nelson Manickam Road, Aminjikarai, Chennai. One by the land owners from illegal encroachment and another by Association namely, Nelson Manickam Salai Lorry, Van, Tempo Owners' Association claiming protection of the right to park the vehicles which they are enjoying for more than 70 years.

(i) **W.P.No.24917 of 2024 is filed by owners with the below**

prayer:-

To direct the respondent Nos.1 to 4 to give police protection to the petitioner's land in Vada Agaram Village, Aminjikarai, Chennai – 600 029 comprised in T.S.No.4/1, 4/4, 4/9, 4/12, 4/13 & 4/14, Block No.3, Ward No.1, of Vada Agaram Village, Aminjikarai Taluk, Chennai – 600 029 to an extend of 36,500 sq.ft for the purpose of constructing the school building based on the complaint dated 06.08.2024.



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(ii) **W.P.No.24565 of 2024 is filed by the Association with the following prayer:-**

To direct the 1st respondent to provide police protection to the petitioner society members to use the property situated at Door No.104/2 (96), Nelson Manickam Road, Aminjikarai, Chennai 600 029 based on the representation dated 07.06.2024 given by the petitioner society in accordance with law.

2. Though the description and extend of the property in these writ petitions vary, the piece of land for which both the owners and the occupant seeking police protection is one and the same. Hence, the above two writ petitions are taken up together and common order is passed.

Common Order

3. The land in dispute admittedly owned by the petitioners in W.P.No.24917 of 2024. In the said land measuring 36,500 sq.ft the owners have decided to construct a school building and for the said purpose, they have



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obtained necessary permission from the Corporation of Chennai and other authorities. The construction work is in progress. While so, the respondents 5 to 7 claiming themselves as members of Society by name, Nelson Manickam Salai Lorry, Van, Tempo Owners' Association which has become defunct preventing the construction work by giving unnecessary trouble and demanded a ransom of Rs.1 crores. Hence, complaint was given against the respondents 5 to 7 and same was registered in Crime No.332/2024 dated 05.06.2024 for the offences under Section 447, 452, 384 and 506(ii) of I.P.C. In spite of registering a complaint against the respondents 5 to 7, the police has not taken action against them and hence, protection is sought.

4. In the Writ Petition No.24565 of 2024 filed in the name of Nelson Manickam Salai Lorry, Van, Tempo Owners' Association represented by its President Sridhar, who is the 5th respondent in W.P.No.24917 of 2024, it is stated that the petitioner Association is a registered Society with Registration No.271 of 1988. It has a permanent office and parking accommodation at Door No.104/2 (96), Nelson Manickam Road, Aminjikarai, Chennai – 600 029, land measuring 6000 sq.ft.



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5. It is a vacant space appurtenant to the office building, used by them for parking vehicles of the Association members. While so, the respondents 4 to 6 claiming as owners of the property filed O.S.No.4970 of 2014 through Power of Agent, 3rd respondent before the II Assistant City Civil Court, Chennai against one Arumugam and obtained *exparte* injunction in respect of the said property. Later the injunction was vacated. Against the said order, the respondents 5 to 7 through their Power Agent filed two C.M.A.Nos.154 & 155 of 2014 before the III Additional City Civil Court, Chennai and same was dismissed on 13.12.2023 holding that they have not proved possession over the suit property.

6. In the main suit O.S.No.4970 of 2014 instituted by the land owners, the Association filed implead petition. Pending implead petition, the 3rd respondent (P.S.Theleep Kumar, Power Agent of AMPA Sky Walk at No.1, Nelson Manickam Road, Aminjikarai, Chennai) withdrew the suit O.S.No.4970 of 2014. While so, in connivance of the police, the respondents got a complaint registered and the members of the petitioner Association was called by the respondent police on 10.01.2024.



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7. Fearing threat to their life, the petitioner association filed W.P.No.5856 of 2024 before the High Court and the said Writ Petition was disposed with a direction to the 2nd respondent police to conduct enquiry in accordance with law, keeping in mind the judgment of the Hon'ble Supreme Court in *Lalita Kumari -vs- State of Uttar Pradesh and others* reported in **2013 (6) CTC 353** and take decision within a period of two weeks.

8. The 2nd respondent police even without conducting the enquiry, has registered the F.I.R in Crime No.332 of 2024 on 05.06.2024 and issued summons under Section 41A of Cr.P.C to the members of the petitioner Association, namely, Sridhar, Jagan and Murugan and in the name of enquiry, the members of the Association are put to continuous threat and harassment. The office room, rest room and compound wall constructed by the petitioner was demolished using JCB and the members of the Association are threatened from taking their vehicles parked inside the premises. In spite of complaint given to the Authorities on 07.06.2024 and 25.07.2024, no action has been taken by the respondent. Hence, the petitioner Association wants police protection for their possession and enjoyment of the property situated at Door



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No.104/2 (96), Nelson Manickam Road, Aminjikarai, Chennai – 600 029 based on the representation dated 07.06.2024.

9. When the matter came up for consideration, the Learned Counsel appearing for the Association submitted that the Association is in existence for more than 70 years and duly registered in the year 1988. In the vacant land, they have put up construction and obtained electricity service connection and been in continuous enjoyment. The suit in O.S.No.4970 of 2014 filed by the representatives of the title holder of the land came to be withdrew by them and in the C.M.A filed against the Interlocutory order, it was observed that the title holders have not proved their possession. While so, the possession of the petitioner's property cannot be disturbed without due process of law. Hence, police protection is required since attempt is made forcibly to evict them. It is also submitted by the Learned Counsel appearing for the petitioner/Association that still 17 vehicles of the Association members is parked in the said property.



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10. Per contra, the Learned Counsel appearing for the title holder submitted that the land in dispute is a vacant land hence the principle 'Possession follows title' applies. The Association which came to be registered in the year 1988 under the Societies Registration Act shown its address No.96, Nelson Manickam Road, Aminjikarai, Chennai – 600 029, it is not the address of land in dispute. How and from whom they got possession of the property in dispute not disclosed in the Writ Petition. The unauthorised construction alleged to have been made by them and the water tax and electricity consumption charges alleged to have been paid by them does not correlate with the property in dispute. Whereas, the title holders have possession over the property which is morefully described with survey numbers and measurements. The local body authority have inspected the property and permitted the title holder to put up construction for the proposed school. The observation of the Additional City Civil Court in C.M.A's, no way of any assistance for the Association in respect of their possession. While so, with the intention to extort money making use of certain documents with unclear description of the property and taking advantage of parking their vehicle without permission in the vacant land, trying to establish their possession and demanding ransom.



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11. The respondent police has registered the complaint in Crime No.332 of 2024 for the alleged trespass. The petition filed by the members of the Society, to quash the complaint was dismissed by this Court on 02.07.2024. The petitioner being the title holder and in possession is entitled for police protection. Further, the Society was registered under the Societies Act has become defunct and duly notified in the Government Gazette. Therefore, the Writ Petition by the defunct Association is not maintainable.

12. Heard the Learned Counsels for the petitioner and the Learned Government Advocate (Crl.Side) for the respondents.

13. It is a case where the title holder obtained permission to put up construction in 35,600 sq.ft of land, seeks police protection from interference by members of the defunct Association. The said Association claims to be in occupation of the place measuring 6000 sq.ft by parking their vehicles and also a construction in it. The evidence which they rely upon are the Society Registration Certificate, Electricity Card and Water Tax receipts. There is no material to show how and when they came in possession of the said portion of



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the land. It is an admitted case of the Association that a civil suit was instituted against one of the Association member by name Arumugam by the land owners as early as 2016 and the Association filed impleading petition in the suit, but the suit itself was withdrawn. If it is so, their possession been questioned as early as 2014 when O.S.No.4970 of 2014 filed. But till date, the Association has not filed any suit to legitimate their possession. The registration of Society by giving the door number of the property will not give right of possession, even assuming that the Door No.96, Nelson Manickam Road, Aminjikarai, Chennai – 600 029 is in respect portion of the disputed property. The right to seek police protection will emanate only for a person who is in lawful possession. This Court cannot provide protection for illegal occupant.

14. In fine:-

(i). Writ Petition No.24565 of 2024 filed by the Association stands dismissed.

(ii). Writ Petition No.24917 of 2024 filed by the land owners allowed.



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There shall be no order as to costs. Consequently, connected

Miscellaneous Petition is closed.

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Index :Yes.

Speaking Order/Non-Speaking Order.

bsm

To:-

1. The Commissioner of Police,
Greater Chennai, Vepery, Chennai – 600 007.

2. The Deputy Commissioner of Police,
Chennai Anna Nagar, K-4 Police Station Campus,
Anna Nagar, Chennai – 600 040.

3. The Assistant Commissioner of Police,
Anna Nagar Range,
K-4 Police Station Campus,
Anna Nagar, Chennai – 600 040.

4. The Inspector of Police (L&O),
K-3, Aminjikarai Police Station,
Aminjikarai,
Chennai – 600 029.

5. The Public Prosecutor, High Court, Madras.



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DR.G.JAYACHANDRAN,J.

bsm

Pre-delivery common order made in
W.P.Nos.24565 & 24917 of 2024

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