



WP(MD) No.5314 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.03.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

W.P.(MD) No.5314 of 2024

K.Kuberan

... Petitioner

/vs./

1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

2.The Inspector of Police,
District Crime Branch,
Virudhunagar.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st Respondent herein to consider and Re-investigate the Petitioner's complaint dated 03.02.2024 within a period that may be stipulated by this Court.

For Petitioner : Mr.S.Ponsaravanan
For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)



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ORDER

The learned counsel for the petitioner submits that the petitioner's mother was aged 80 years and due to age related health problem, she lost her memory. She was unable to identify her own children. At that stage, Velammal Medical College Hospital and Research Institute, Madurai, had issued a certificate that the petitioner's mother is declining usual and auditory hallucination and sleep disorder. While so, the petitioner's sister and her son and daughter had obtained medical certificate from one Ramachandran, Narayanan Clinic, Chatrapatti as though she is hale and healthy and is fit state of mind. Based on that certificate, they had obtained settlement deed from the aged mother of the petitioner regarding the properties in favour of the sister's son and daughter. Therefore, the petitioner had preferred a complaint with the respondents. The second respondent/the Inspector of Police, District Crime Branch, Virudhunagar, had declined to register a case stating that all are relatives. Therefore, the petitioner has to take recourse to civil Court.



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2.The learned Government Advocate (Crl.side), on instructions of the respondents, would submit that the second respondent received current paper and based on the current paper, an enquiry was conducted, in which the petitioner himself had appeared. He would further submit that the current paper was closed after due enquiry, in which the petitioner herein had himself given an undertaking that he had come to know about the settlement deed executed by his mother. Therefore, he had instituted a suit in O.S.No.426 of 2021 for partition.

3.Considering the relationship between the parties, the submission of the learned Government Advocate (Crl.side) is found acceptable, as the petitioner herein had instituted the suit for partition. In the very same suit, he can also seek the relief of cancellation of settlement deed, if what had been agitated before this Court is true.

4.Since the matter is seized by the civil Court, the petitioner can seek his remedy through the civil Court. Only after trial in the course of recording the evidence, if the civil Judge during the trial arrives at a conclusion that the defendants in the suit, the relatives of the petitioner herein, had indulged in any



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fraudulent actions and gives a finding to that effect in the judgment, the same can be taken note of by the learned Judge himself for directing institution of a criminal case. Until such time, this Court need not issue any directions.

The Writ Petition is disposed of, accordingly. No costs.

07.03.2024

Index : Yes / No

Internet : Yes / No

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TO:

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- 2.The Inspector of Police,
District Crime Branch,
Virudhunagar.



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SATHI KUMAR SUKUMARA KURUP, J.

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Order made in
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