



W.P.(MD)No.26704 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.11.2024

CORAM:

THE HONOURABLE **MR.JUSTICE M.NIRMAL KUMAR**

W.P.(MD)No.26704 of 2024

G.Murugesan

.. Petitioner

Vs

1. The Superintendent of Police
Thanjavur District
Thanjavur

2. The Deputy Superintendent of Police
Vallam, Thanjavur District

3. L. Pandiyan

4. Sittarasu

5. Aravindan

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent to complete the enquiry on the petitioner's complaint dated 24.05.2023 recorded as petition No. G3/14111 within stipulated time as may be fixed by this Court.



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For Petitioner	: Mr.T.A.Ebenezer
For Respondents	: Mr.A.Thiruvadikumar
No.1 & 2	Additional Public Prosecutor
For R-5	: Mr.V.Balasubramanian

ORDER

This Writ Petition has been filed to direct the second respondent to complete the enquiry on the petitioner's complaint dated 24.05.2023 recorded as petition No. G3/14111 within stipulated time as may be fixed by this Court.

2. It is the contention of the petitioner that the property in S. No. 13/2, Thirukanurpatti Village, Thanjavur Taluk, Vallam, Thanjavur District to an extent of 3 acre 24 cents exclusively belongs to his mother. The mother of the petitioner had borrowed a sum of Rs.22,98,943/- from the Oriental Bank of Commerce now amalgamated with Punjab National Bank. Thereafter she had executed a settlement deed in favour of the petitioner. The property is valued around Rs. 5 Crores but the loan amount is less than that. After getting settlement deed when the petitioner tried to sell the property one Pandian/the third respondent



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herein approached him and entered into agreement of sale with him at the rate of Rs.332/- per square feet and he also paid a sum of Rs.60,000/- as advance . Thereafter the third respondent demanded general power of attorney in his favour so that he can sell the property and settle the loan amount with the bank and also negotiated with the bank. Hence the petitioner had executed registered power deed on 29.12.2015 but the said Pandian delayed more and more. In the meantime the bank in collusion with the third respondent brought the property for auction for a meagre amount of Rs.1,03,60,000/- and the sale was confirmed in favour of one Sittarasu/fourth respondent herein and the sale certificate has been issued on 20.04.2022 even without giving notice to the petitioner. The petitioner also issued legal notice to the third respondent dated 05.05.2023, though he received notice, he did not send any reply. Finding that the third respondent had cheated the petitioner he had lodged complaint before the first respondent on 25.05.2023 and it was forwarded to the District Crime Branch, Thanjavur. The Deputy Superintendent of Police, District Crime Branch, Thanjavur instead of conducting enquiry threatened him that he will register First Information Report against him and also arrest him. Hence he made complaint about



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the Deputy Superintendent of Police to the Director General of Police, Inspector General of Police and the first respondent. On the request of the petitioner, the second respondent was appointed as enquiry officer and the petitioner appeared before him and made statements on 21.07.2023 and thereafter the petitioner was not aware what happened . The petitioner was in possession of the property. On 07.09.2024 when he was in property the respondents 3 and 4 along with rowdy elements namely Balu along with others tried to enter into the property and also attempted to kill the petitioner. The petitioner ran to Vallam police station in fear of life and the Inspector of Police, Vallam Police Station had came to the scene of occurrence on 25.05.2024 and chased out the intruders and also the said Balu. Hence the petitioner has filed this petition to conduct proper enquiry on the petitioner's complaint dated 24.05.2023 in petition No.G3/14111 within the stipulated time.

3. The learned counsel appearing for the fifth respondent submitted that the mother of the petitioner had taken loan from Oriental Bank of Commerce in the year 2010 and this bank has now been amalgamated with Punjab National Bank. The petitioner has admitted



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that his mother had taken a sum of Rs.80,00,000/- as loan from the bank but she has not repaid the same to the bank. The account has become Non Performing Assest and thereafter recovery proceedings has been initiated under SARFAESI Act. Notice was issued and property was also attached and brought on auction. The third respondent had taken the property on auction. The petitioner challenged the act of the bank before the Debts Recovery Tribunal, Chennai to stall the auction. Though notice was ordered no stay granted. Since there was no stay the property was brought to sale. The fourth respondent is the successful bidder and he had deposited a sum of Rs.1,03,60,000/- and the sale was executed on 20.04.2022. The petitioner now filing this petition since he had failed in the Debts Recovery Tribunal and using the complaint to create a defence that the property is in his possession. As regard the bank is concerned they are following the rules and the property auctioned and sold to the fourth respondent.

4. The learned Additional Public Prosecutor would submit that the fourth respondent is the auction purchaser and he had purchased the property auctioned by the fifth respondent and thereafter when he went to



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take possession of the property the petitioner herein obstructed him and also threatened the fourth respondent. On the basis of the complaint given by the fourth respondent First Information Report registered in Crime No.558 of 2024 on 23.10.2024 by the Vallam Police Station for the offences under Section 329(3),324(5),131 and 351(2) of BNS against the petitioner and his brother Ramachandran. The complaint of the fourth respondent is that the fourth respondent purchased the property on 04.03.2022 through auction by the fifth respondent and sale deed executed as document No.986 of 2022 and sale certificate issued. Thereafter he had put up compound wall laid road path inside the property and he is in possession and the property is guarded by one Balu and Azhagesh. This being so, on 07.09.2024 the petitioner and his brother trespassed into the property and attempted to chase away the said Balu and others by bringing him armed persons which was resisted and thereafter the said Balu and others were threatened to be done away by the petitioner and his henchmen. He also brought JCB to demolish compound wall and property. Thereafter on the complaint given by Balu CSR No. 723 of 2024 assigned. JCB seized and brought to police station Thereafter the petitioner and his brother were called for enquiry and



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they both were warned not to take law into their own hand. But on 03.10.2024 contrary to the undertaking given they again engaged JCB also caused damage to the compound wall to the value of Rs.5,00,000/-. He had also brought with him armed muscle men along with him. The fourth respondent lodged complaint to the Deputy Superintendent of Police on 07.10.2024 and thereafter on 20.10.2024. Again the petitioner attempted to enter into the property using men and machine, and thereafter First Information Report registered.

5. The contention of the petitioner is that the petitioner is still in possession of the property. The learned Additional Public Prosecutor strongly refuted the same and stated that on the basis of the complaint given by the fourth respondent First Information Report registered in Crime No.558 of 2024 on 23.10.2024 by the Vallam Police Station for the offences under Section 329(3),324(5),131 and 351(2) of BNS against the petitioner and his brother Ramachandran and the entire sequence narrated in the First Information Report. The property is in possession of the fourth respondent. Now the investigation is in progress and soon final report to be filed in Crime No.558 of 2024.



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6.Considering the submission and on perusal of the materials it is seen that the petitioner admit that his mother had taken loan for a sum of Rs.22,98,943/- from the Oriental Bank of Commerce now amalgamated with Punjab National Bank and he admits that the during the initiation of recovery proceedings taken under SARFAESI Act and the property was brought for auction, fourth respondent is the successful bidder, sale certificate executed hence nothing survives for further adjudication in the petition, hence the petition is liable to be dismissed.

7. In the result, the petition stands dismissed. No costs.

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Index: Yes/No

Internet : Yes/No

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To

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1. The Superintendent of Police
Thanjavur District
Thanjavur
2. The Deputy Superintendent of Police
Vallam, Thanjavur District
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.



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M.NIRMAL KUMAR, J.

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