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Crl OP No.1378 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.01.2025

CORAM:

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP No.1378 of 2025

S.Andal Priyadarshini

... Petitioner

Vs.

1.The Commissioner of Police,
No.132, EVK Sampath Road,
Vepery, Chennai – 600 007.

2.The Deputy Commissioner of Police,
Washermenpet,
New Washermenpet, Chennai – 81.

3.The Assistant Commissioner of Police,
N1, Royapuram Police Station,
Arthoon Road, Chennai – 600 013.

4.The Inspector of Police,
N1, Royapuram Police Station,
Arthoon Road, Royapuram,
Chennai – 600 013.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.Pc to register the petitioner's complaint dated 25.03.2024 under CSR No.181 of 2024 dated 26.03.2024 issued by the fourth respondent and to submit the final report in accordance with law and thus render justice.



For Petitioner : Mr.Sugumar

For Respondents : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.side)

ORDER

Shri Anoop Jaiswal, IPS retired in the rank of DGP a decade ago. Some of his experiences were captured in “TUTICORIN : Adventures in Tamil Nadu’s Crime Capital” by Shri V.Sudarshan, a well known journalist and writer. A companion volume was published in Tamil under the title “குற்றமும் அநீதியும்”, The original English version is awaiting for publication. In the Chapter captioned “Trespass”, the following incident has been recorded :

“Jaiswal came face to face with this phenomenon in Ambasamudram when he was ASP. A man had allowed two of his cousins who were brothers to stay in the first floor of his house at the Veeravanallur police station limits. It had a ground floor and a first floor. The first floor had a terrace and a large room. The arrangement was to be a temporary one. The cousin would stay to prepare for an examination and vacate when he had written the examination. Three months afterwards when he asked them to vacate they refused saying his father had borrowed some money from their father and had failed to



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return it. They would vacate once the money was returned. His plea that his father was long dead and he had no knowledge of this transaction fell on deaf ears.

Jaiswal called the Inspector of the Vearavannalur police station and asked him to do something about it.

What can we do sir?

Trespass is an offense. You have to register an FIR and if they don't vacate you have to arrest them and take them out of the premises.

Sir it is a bailable offense. They will be released from the police station only.

Yes, if that happens release them. If they enter the house again, add the charge of housebreaking to trespass and arrest them again.

Sir we have never done this kind...

If we have never done it, we will try it now,

The Inspector summoned them to the police station and asked the relatives to vacate and they started arguing but the moment the word FIR was mentioned they vacated."

2.The petitioner wants me to adopt a similar approach. The petitioner is a practising lawyer. Her paternal grandmother Mrs.Saraswathi owned a property bearing Door No.19 (Old No.17) 1255 sq.ft in Old Survey No.32 and 124/2 Part Re-Survey No.527/2 and 527/1 part, Northern row of Andiyappan Gramani Street, Royapuram, Chennai – 600 013. She had



purchased the same vide sale deed dated 03.10.1977 (Doc No.3323/1977) from one Gajapathy Naidu. The building is said to be more than 90 years old. The said Saraswathy executed a settlement deed dated 29.04.2013 (Doc No.1168/2013) on the file of the SRO, Royapuram settling a clearly earmarked portion measuring 671 sq.ft in favour of her grandson S.Krishnakumar together with certain other rights. The settlor Saraswathy retained life interest. On 14.09.2020, Saraswathy passed away and Krishnakumar became the absolute owner. On 22.08.2022, Krishnakumar who is none other than the petitioner's brother along with the father, executed a settlement deed in favour of the petitioner settling the aforesaid property vide Doc No.2889 of 2022 on the file of the SRO, Royapuram. Subsequently, the petitioner executed a settlement deed dated 01.09.2022 in favour of her minor son. She has however retained life estate in the property. The petitioner had to leave for Bangalore as her husband was employed there. Her relationship with him came under strain and the petitioner came back to Chennai for good.

3. When she returned, she was shocked to see that her property was broken open and occupied. According to the petitioner, the property had also been heavily damaged. The petitioner approached the fourth



respondent to take action in the matter. The fourth respondent did not take any action, the petitioner moved this Court. Instead of seeking a direction for registering a case, she sought police protection. It is well settled that police protection can be given only if there is any decree. Therefore, this Court declined to grant relief in WP No.19895 of 2024. In these circumstances, the present O.P has been filed for directing the fourth respondent to take penal action on her complaint.

4.The respondent police conceded before this Court that the preliminary enquiry conducted by them clearly revealed that the petition mentioned premises absolutely belong to the petitioner herein. I can understand if there is a bona fide or genuine civil dispute between rival parties in which case the police can relegate the complainant to go before the civil court to establish his or her right. Such is not the case here. The petitioner is a single parent and she is also a practising lawyer. It would be most inequitable to relegate the petitioner to go before the jurisdictional civil court and seek recovery of possession. If somebody's property had been broken open and criminal trespass had been committed, the jurisdictional police cannot turn a blind eye. They will have to necessarily interfere in the matter. Land grabbing is a serious matter. Right to property



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may not be a fundamental right. It is however a constitutional right recognized under Article 300A of the Constitution.

5.The fourth respondent is therefore directed to register FIR against the trespassers and take speedy and effective action as per law. Final report will have to be filed within a period of 90 days. This criminal original petition is disposed of accordingly. No costs.

17.01.2025

Internet : Yes/No

Index : Yes/No

NCC : Yes/No

SKM

Issue order copy on 19.02.2025



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G.R.SWAMINATHAN, J.

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