



W.P.CrI.No.167 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2025

CORAM:

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.CrI.No.167 of 2025

A.Sethu

... Petitioner

Versus

1. The State Rep. by the Inspector of Police
J-10, Chemmanchery Police Station
Sholinganallur, Chennai - 600 119.

2. The Assistant Commissioner of Police
Chemmanchery Police Range
Kannagi Nagar, Okkiyam Thuraipakkam
Chennai - 600 097.

3. The Commissioner of Police
Tambaram Police Commissionerate
Sholinganallur, Chennai - 600 119.

4. The Thasildar cum Executive Magistrate
Sholinganallur Thaluk office
karapakkam, Chennai - 600 097.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Mandamus, directing the 4th respondent to take the complaint dated 08.04.2025 and amended petition dated 12.04.2025 lodged under 164 of BNSS (145 of Cr.P.C) on file and to enquire the same in accordance with law and to dispose of the same.

For Petitioner : Mr.G.Prabhakaran



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For Respondents

: Mr.K.M.D.Muhilan,
Additional Public Prosecutor for R1 to R4

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ORDER

The petition has been filed directing the 4th respondent to take the complaint dated 08.04.2025 and amended petition dated 12.04.2025 lodged under 164 of BNSS (145 of Cr.P.C) on file and to enquire the same in accordance with law and to dispose of the same.

2. According to the petitioner, there is a breach of peace in respect of the immovable properties, the complaint has been given, however, the same has not taken on file by the Investigating Officer. Therefore, seeks direction.

3. Heard both and perused the materials placed on record. At the outset, this Court is of the view that the very filing of the writ petition before this Court is nothing but clear abuse of process of law.

4. It is relevant to extract Section 164(1) of Bharatiya Nagarik Suraksha Sanhita, 2023 :-

"164. Procedure where dispute concerning land or water is likely to cause breach of peace:



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(1) Whenever an Executive Magistrate is satisfied from a report of a police officer or upon other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within his local jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, on a specified date and time, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute."

5. Section 164 of BNSS, 2023 prescribes procedure to be followed where dispute concerning immovable property or water is likely to cause breach of peace. under Section 164(1) BNSS, 2023, the Executive Magistrate passes an order in case the Executive Magistrate is satisfied from **"a report of a police officer or upon other information"** that a dispute likely to cause a breach of peace exists. It is also relevant to point out that there are three fundamental requisites to maintain an order under Section 164 of BNSS, 2023 and they are, (1)there must be a report of a police officer or other information that a dispute was likely to cause breach of peace concerning the immovable property; (2) the Magistrate must be satisfied with such police report or other information that the dispute was likely to cause breach of peace; and (3) on the satisfaction of the Magistrate, he must



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make an order in writing stating the grounds for satisfaction in the order,
under Section 164(1) of BNSS, 2023.

6. In view thereof, this Court is of the view that based on the report of the police or any other information and only to the satisfaction of the Magistrate concerned that a dispute is likely to cause breach of peace concerning the property, the proceedings under Section 164 of BNSS could be initiated and not by mere whims and fancies of the parties seeking a general direction by way of filing this writ petition for taking the complaint under Section 164 of BNSS on the file of the fourth respondent.

7. Accordingly, I do not find any merits in this petition and this petition stands dismissed. No costs.

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Index :Yes/No

Internet:Yes/No

To



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N.SATHISH KUMAR, J.



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