



W.P.Crl.(MD)No.1925 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

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K.Duraipandian

: Petitioner

Vs.

1.The District Collector,
Madurai District.

2.The Director of Vigilance and Anti Corruption,
St.Thomas Mount, Alandur, Chennai.

3.The Deputy Superintendent of Police,
Directorate of Vigilance and Anti Corruption,
Alagar Kovil road, K.Pudur, Madurai – 7.

4.Dhanalakshmi,
Special Tahsildar of Adi Dravidar and
Tribal Welfare Department – Unit-I,
Madurai, residing at No.53-B Surendhiran Nagar,
2nd Street, Ponmeni, Madurai – 625 010.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the second and third respondents to take appropriate action as against the fourth respondent herein, based on his representation in the form of complaint, dated 26.08.2024 made to the respondents.



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WEB COPY For Petitioner : Mr.A.Ramesh

For Respondents : Mr.N.Ramesh Arumugam,
Government Advocate (Civil Side)
for R1.

: Mr.B.Thanga Aravindh,
Government Advocate (Criminal Side)
for R2 & R3.

ORDER

The Writ Petition has been filed invoking Article 226 of the Constitution seeking direction to the respondents 2 and 3 to take appropriate action against the fourth respondent, based on the petitioner's representation, dated 26.08.2024.

2. The case of the writ petitioner is that in December 2020, the Madurai District Adi Dravidar and Tribal Welfare Officer, re-issued the order to grant house site for the houseless beneficiary peoples and based on the same, Mr.Dhanasekaran, Special Tahsildar of Unit-I has provided free house site pattas to the new beneficiaries on 31.12.2020 and thereafter, the officer has been transferred and new officer has been appointed and subsequent to that period also, the new officer has issued



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the house site pattas to the new beneficiaries; that one Palani using the said situation to cheat and grab the Government house sites created and forged 51 house site pattas; that the fourth respondent inspected the land and enquired the persons, who had encroached the house sites and that they came into conclusion that all are forged and fabricated and the same was reflected in his order, dated 03.10.2022, but no effective steps have been taken; that the petitioner was constrained to approach the first respondent on 21.08.2023 to take appropriate action against the fourth respondent, which was forwarded to the District Welfare Officer, Madurai and in the enquiry conducted by him, the petitioner appeared and produced the documents and so far no effective steps have been taken and that thereafter, the petitioner was forced to give a complaint before the respondents 2 and 3 on 26.08.2024 and there was no action till now and therefore, the petitioner was constrained to approach this Court.

3.Even according to the petitioner, since the first respondent has not taken any action, he gave complaint to the respondents 2 and 3 and since there was no action, he was constrained to file the above writ petition.



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4.A cursory perusal of the averments in the writ petition would only reveal that the writ petitioner has been indirectly seeking registration of criminal case. The Hon'ble Supreme Court in the case of ***Priyanka Srivastava and another Vs. State of U.P. and others*** reported in (2015) 6 SCC 287 has held,

“24. Regard being had to the aforesaid enunciation of law, it needs to be reiterated that the learned Magistrate has to remain vigilant with regard to the allegations made and the nature of allegations and not to issue directions without proper application of mind. He has also to bear in mind that sending the matter would be conducive to justice and then he may pass the requisite order. The present is a case where the accused persons are serving in high positions in the bank. We are absolutely conscious that the position does not matter, for nobody is above law. But, the learned Magistrate should take note of the allegations in entirety, the date of incident and whether any cognizable case is remotely made out. It is also to be noted that when a borrower of the financial institution covered under the SARFAESI Act, invokes the jurisdiction under Section 156(3) Cr.P.C. and also there is a separate procedure under the Recovery of



Debts due to Banks and Financial Institutions Act, 1993, an attitude of more care, caution and circumspection has to be adhered to.

25. Issuing a direction stating "as per the application" to lodge an FIR creates a very unhealthy situation in the society and also reflects the erroneous approach of the learned Magistrate. It also encourages the unscrupulous and unprincipled litigants, like the respondent no.3, namely, Prakash Kumar Bajaj, to take adventurous steps with courts to bring the financial institutions on their knees. As the factual exposition would reveal, he had prosecuted the earlier authorities and after the matter is dealt with by the High Court in a writ petition recording a settlement, he does not withdraw the criminal case and waits for some kind of situation where he can take vengeance as if he is the emperor of all he surveys. It is interesting to note that during the tenure of the appellant No.1, who is presently occupying the position of Vice-President, neither the loan was taken, nor the default was made, nor any action under the SARFAESI Act was taken. However, the action under the SARFAESI Act was taken on the second time at the instance of the present appellant No.1. We are only stating about the devilish design of the respondent No.3 to harass the appellants with the sole intent to avoid the payment of loan. When a citizen avails a loan from a



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financial institution, it is his obligation to pay back and not play truant or for that matter play possum. As we have noticed, he has been able to do such adventurous acts as he has the embedded conviction that he will not be taken to task because an application under Section 156(3) Cr.P.C. is a simple application to the court for issue of a direction to the investigating agency. We have been apprised that a carbon copy of a document is filed to show the compliance of Section 154(3), indicating it has been sent to the Superintendent of police concerned.

26. At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes this route to harass their fellows citizens, efforts are to be made to scuttle and curb the same.”

5. As per the scheme of B.N.S.S., if no action is taken by the respondents 2 and 3, the complainant has to approach the higher officials and if no action is taken, he has to invoke Section 175(3) B.N.S.S. before



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the jurisdictional Court. Since the writ petitioner is having effective alternative remedy, he is not entitled to invoke Article 226 of the Constitution and as such, the writ petition itself is not maintainable. Hence, this Writ Petition is dismissed as not maintainable. The writ petitioner is at liberty to take appropriate proceedings in the manner known to law. No costs.

31.10.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
das

To

- 1.The District Collector,
Madurai District.
- 2.The Director of Vigilance and Anti Corruption,
St.Thomas Mount, Alandur, Chennai.
- 3.The Deputy Superintendent of Police,
Directorate of Vigilance and Anti Corruption,
Alagar Kovil road, K.Pudur, Madurai – 7.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

das

Order made in
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