



WP(MD) No.23937 of 2022

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)**

Monday, the Twenty Fifth day of September Two Thousand and Twenty Three

PRESENT

The Hon`ble DR.Justice. D. NAGARJUN

WP(MD) No.23937 of 2022

MUTHUPALAM

... PETITIONER

Vs

1 THE DISTRICT COLLECTOR
VIRUDHUNAGAR,
VIRUDHUNAGAR DISTRICT

2 THE REVENUE DIVISIONAL OFFICER,
SATHUR, VIRUDHUNAGAR,
VIRUDHUNAGAR DISTRICT

3 THE TAHSILDAR
TALUK OFFICE,
RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT

4 THE DEPUTY SUPERINTENDENT OF POLICE,
O/O. DEPUTY SUPERINTENDENT OF POLICE,
RAJAPALAYAM, VIRUDHUNAGAR DISTRICT

5 THE INSPECTOR OF POLICE
RAJAPALAYAM NORTH POLICE STATION,
RAJAPALAYAM, VIRUDHUNAGAR DISTRICT



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6 RAVI.R
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7 KALIDOSS.K

8 RAMESH.S

... RESPONDENTS

Writ Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to issue of Writ of Mandamus to direct the respondents No.1 to 4 herein to initiate appropriate legal action against the Respondent No.6 to 8 herein and to prevent social boycott / excommunication of the petitioner and his family members based on the petitioners representation dated 24.09.2022 and ensure that the fundamental rights of the petitioner is safeguarded in the light of the order made by this Honble Court made in K.Gopal Vs The State of Tamil Nadu, Rep. by the Chief Secretary (2005(4) CTC 241).

ORDER : This Writ petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S. KARUNANIDHIR, Advocate for the petitioner and of MR.B.THANGA ARAVINDH, Government Advocate(Crl.side) on behalf of the Respondents 1 to 5 and of MR.A.BALAJI, Advocate for the Respondens 6 to 8, the court made the following order:-

This Writ Petition is filed under Article 226 of the Constitution of India seeking for a Mandamus to the respondents Police to initiate appropriate action against the respondents 6 to 8 and to prevent social boycott/excommunication of the petitioner and his family members, based on the representation of the petitioner dated 24.09.2022 and ensure that the fundamental rights of the petitioner are safeguarded in the light of the order made by this Court in K.Gopal vs. The State of

Tamil Nadu, Represented by the Chief Secretary [2005 (4) CTC 241].

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2. The facts in brief as required basing on the affidavit filed by the petitioner are as follows:

(i) The petitioner belongs to Hindu Nadar Community and is a member of a Rajapalayam Hindu Nadar Uravinmurai Society [hereinafter referred to as "Society"] which was established to raise contributions from the Hindu Nadar residing at Rajapalayam and the funds and income derived from the properties are used to establish the Educational Institutions and conduct the spiritual festivals. The said Society owns a shopping complex in Kamarajar Nagar, Rajapalayam, in which, the petitioner has rented three shops in the year 1998.

(ii) The petitioner is running a business in the name and style of Muthu Rewinding Services and is paying a monthly rent to the Society without any default. As three shops were in a dilapidated condition, the petitioner has given a letter on 02.07.2022 to the Society to permit him to use the bore-well water. On 03.07.2022, a meeting of Executive Committee of the Society was conducted in respect of using the bore-well water by the petitioner without prior approval of the Society and, the petitioner was asked to pay a fine of Rs.15,000/-. The petitioner was also asked to extend oral apology during the Panchayat.

(iii) The sixth respondent, who is having personal animosity against the

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petitioner, insisted the President, Secretary and other members to direct the petitioner to vacate from the shops, but the petitioner has refused to vacate the shops. On 03.07.2022, a group of people headed by the sixth respondent has closed all the three shops illegally. The respondents 6 to 8 conducted Kattapanchayat for which the petitioner has suffered mentally. On 28.07.2022, they insisted the petitioner to pay fine to get a key for the rental shops. He was the sole breadwinner of the family and having no choice, he has filed a complaint before the Inspector of Police, North Police Station, Rajapalayam and it was registered as C.S.R.No.787 of 2022.

(iv) On 11.09.2022, a group of 11 persons headed by the respondents 6 to 8 illegally entered into the shops and has thrown off all the belongings on the road and stolen many things and caused heavy loss to the petitioner, on which, the petitioner has lodged another complaint against the respondents 4 to 7 and other 11 members and a case has been registered in Crime No.242 of 2022.

(v) In spite of registration of the criminal case, the petitioner and his family members were ex-communicated and the respondents 6 to 8 have orally directed Nadar Uravimurai community people not to allow the petitioner and his family members into Sri Mariyamman Temple. On 10.09.2022, when the petitioner went to the said Temple, the respondents 4 to 6 refused to allow him to enter into the Temple

alleging that the petitioner has to bow their legs and pay the fine. They also



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insisted all the Uravinmurai people not to speak with him and his family members and the petitioner has lost his livelihood.

(vi) It is mentioned further that in the case of K.Gopal vs. The State of Tamil Nadu, Represented by the Chief Secretary [2005(4) CTC 241], this Court held that Kattapanchayats are extra-constitutional Institutions and not legal. Therefore, he sought for issuance of a Mandamus to the respondents Police.

3. The learned counsel appearing for the respondents 6 to 8 has filed a counter affidavit as under:

The petitioner was running a rewinding services in the said shops in the name of Muthu Rewinding Services and was not paying the rents. The shops are in dilapidated condition. There is a common bore-well for water services to 88 shops and each shop is permitted to take two pots of water each day. The petitioner has made an improvement work in the three shops without the permission of the Trustees of Hindu Nadar Uravinmurai. The petitioner continued to use 4 to 5 barrels of water in early morning prior to opening of the shops and thereby, the other shops who are not getting sufficient water, have made a complaint to the Police and the same is registered as C.S.R.No.787 of 2022. The Sub-Inspector of Police conducted an enquiry, wherein, the unofficial respondents appeared and gave an undertaking that

they will follow the bye-laws and Rules of Hindu Nadar Uravinmurai. However, the



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petitioner has not given any such undertaking and has vengeance with nearby shop owners. The petitioner used to play the sound system loudly and used to pick up the quarrel with the adjacent tenants. The petitioner has formally closed the shops and filed a complaint stating that he was forcibly evicted, basing on which, a case in Crime No.241 of 2022 was registered for the offence punishable under Sections 147, 448, 427 and 379 IPC. The petitioner and his family members were not ex-communicated. If at all the petitioner was forcibly evicted, he has to approach the civil Court and the allegation made by the petitioner that he was not allowed to worship in the temple is in-correct. Therefore, they sought for dismissal of the present Writ Petition.

4. The learned Government Advocate (Criminal side) appearing for the official respondents submits that the enquiry was conducted and 20 persons were examined in that locality and the enquiry reveals that the ex-communication is not being practiced against the petitioner.

5. The learned counsel appearing for the petitioner has filed certain pictures showing that the belongings of the petitioner in the three shops were thrown out by the persons engaged by the unofficial respondents.

6. Heard all the parties concerned and perused the records.

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7. The grievance of the petitioner is that he has been excommunicated and that he was forcibly evicted from the shops. Insofar as the allegation that the petitioner was forcibly evicted by throwing all his belongings is concerned, the petitioner filed a complaint, basing on which, a case in Crime No.241 of 2022 was registered for the offence punishable under Sections 147, 448, 427 and 379 IPC and the investigation is going on and the matter is seized by the criminal Court.

8. In respect of dispossessing the petitioner from the shops, without following due process, there is no record as to whether the petitioner has filed any suit before the civil Court seeking restitution. The Police have no role to pay in respect of restoring the position back to the petitioner. The petitioner is expected to approach the appropriate Court and seek remedy.

9. This Writ Petition is filed in respect of ex-communication and not in respect of restoration of the shops which were originally in the possession of the petitioner as tenant and that the criminal Court is taking care of the criminal case registered on a complaint filed by the petitioner against the persons who have allegedly evicted the petitioner forcibly from the shops, this Court has examined the issue only in respect of alleged excommunication by the unofficial respondents and others.

10. In respect of allegation of the petitioner that the unofficial respondents that

they have been practicing ex-communication against the petitioner and his family

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members is concerned, on going through the contents of the affidavit and counter affidavit, it reveals that the petitioner has used the bore-well water without the permission of the Association, on which, the Executive Committee of the Society has imposed a fine of Rs.15,000/- on the petitioner, which the petitioner refused to pay on which the members of the Society have been practicing ex-communication. It is surprisingly to note that in the era of Chandrajan, "Panchayat" was conducted and fine of Rs.1,500/- was imposed on the petitioner without any authority.

11. When the petitioner has asserted clearly that he is being boycotted by his caste people basing on the instructions of the unofficial respondents, the Police have reported that they made an enquiry with 20 persons in that locality and found that there was no ex-communication. The Police have not filed any report and to know whom did they enquired. The Police should have enquired the petitioner and his family members and others.

12. Since the Police have not placed any details in respect of the enquiry conducted by the police in respect of ex-communication and that the petitioner vehemently submitted that the excommunication/social boycotting is being practicing as the petitioner has refused to pay a sum of Rs.15,000/- as fine amount for using the water without the permission of the Association, this Court is of the opinion that proper enquiry is required to be done in respect of this to know whether



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excommunication is being done.

13. It is very difficult to digest that a person is excommunicated/social boycotting on a simple allegation that he used excess water to his shop. There is no law, statute procedure and bye-laws, under which, such amount of Rs.15,000/- has been imposed.

14. In view of the above, this Court is of the opinion that the District Collector is directed to constitute a Committee with the officers like, District Revenue Officer, Revenue Divisional Officer, Additional Superintendent of Police etc., to enquire in respect of excommunication in the village and file a report before this Court on or before 31.10.2023.

15. Post the matter on 31.10.2023.

sd/-
25/09/2023

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/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SSB/AM
TO

1 THE DISTRICT COLLECTOR
VIRUDHUNAGAR, VIRUDHUNAGAR DISTRICT

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O/O. DEPUTY SUPERINTENDENT OF POLICE,
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- 5 THE INSPECTOR OF POLICE
RAJAPALAYAM NORTH POLICE STATION,
RAJAPALAYAM, VIRUDHUNAGAR DISTRICT
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN

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Date :25/09/2023

PKP/DD/SAR- /06.10.2023/ 10P/7 C

Madurai Bench of Madras High Court is issuing certified
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