



W.P(MD) No.15269 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.08.2023

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P(MD)No.15269 of 2021
and
W.M.P(MD)No.12178 of 2021

M.Vijayaraman

... Petitioner

Vs.

1.The Superintendent of Police

Madurai Rural District,
Madurai - 625007.

2.The Inspector of Police

Thirumangalam Town Police Station,
the Inspector of Police,
Kalligudi Police Station (In Charge)
Madurai District.

3.The Sub-Inspector of Police

Kalligudi Police Station,
Madurai District.



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4.The Revenue Divisional Officer,
Thirumangalam Sub-Division,
Madurai District.

5.The Tahsildar
Kalligudi Taluk,
Madurai District.

6.Taluk Surveyor
Kalligudi Taluk,
Madurai District.

7.The Firkha Surveyor
Kurayoor Firkha,
Kalligudi Taluk,
Madurai District.

8.Chintamani @ Karuppayee

9.M.Kannan

10.Petchiammal @ Jegatha

11.M.Gnanasundaram

12.M.Kottu Durai @ Kadavul

... Respondents



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PRAYER :- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents 1 to 3 to provide adequate armed police protection to enable the respondents 5 to 7 to conduct survey in the petitioner's land in Survey Nos.22/11B2, 22/6C in Patta No.1071 in Veppankulam Village, Kalligudi Taluk, Madurai District on the basis of his payment made on 27.11.2020 and to direct the fourth respondent to take appropriate actions against the respondents 5 to 7 as per the orders of this Court made in W.P.(MD) No.13465 of 2020 dated 05.10.2020 and 09.10.2020 for not surveying the petitioner's land and forbear the respondents 8 to 12 from making any hindrance to the conducting of survey on the basis of mere pendency of a civil suit in O.S.No.105 of 2021 on the file of the District Munsif Court, Thirumangalam.

For Petitioner : Mr. P.Shanmugam

For Respondents : Mr. R.M.Anbunithi - for R1 to R7

Additional Public Prosecutor

No Appearance - for R8 to R12



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ORDER

The Writ Petition has been filed in the nature of a Mandamus seeking a direction against the respondents 1 to 3 to provide adequate armed police protection to enable the respondents 5 to 7 to conduct survey in the petitioner's land in Survey Nos.22/11B2, 22/6C in Patta No.1071 in Veppankulam Village, Kalligudi Taluk, Madurai District on the basis of his payment made on 27.11.2020 and to direct the fourth respondent to take appropriate actions against the respondents 5 to 7 as per the orders of this Court made in W.P.(MD)No.13465 of 2020 dated 05.10.2020 and 09.10.2020 for not surveying the petitioner's land and forbear the respondents 8 to 12 from making any hindrance to the conducting of survey on the basis of mere pendency of a civil suit in O.S.No.105 of 2021 on the file of the District Munsif Court, Thirumangalam.

2. The petitioner is the owner of the property in Survey Nos. 22/11B2, 22/6C in Patta no.1071 in Veppankulam Village, Kalligudi Taluk, Madurai District, measuring 1.41 acres. The said property was purchased through a sale deed dated 09.04.2015. The 9th respondent who was the then



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elected Vice Chairman of Kallikudi panchayat Union by misusing his political influence creating trouble over the property which was already sold to the vender of the petitioner and prevented from surveying and fencing the land with an intention to grab the said land. Already the vendor of the petitioner filed a Criminal Original Petition in CrI.O.P.(MD(No.20279 of 2016 and the same was allowed by order, dated 24.10.2016. On 27.11.2020 the petitioner paid the requisite fee for surveying the lands and requested the respondents 1, 3, 5 and 6 to conduct survey by giving adequate police protection and submitted a written representation on 17.01.2021. Thereafter, this petitioner preferred a Writ Petition in W.P.(MD)No.2078 of 2021 seeking for issuance of a Writ of Mandamus directing the respondents 1 and 2 therein to accord adequate police protection to conduct survey in the above said survey number. In the said Writ Petition, this Court directed the respondents to consider the representation of the petitioner.

3. Thereafter, the petitioner approached the respondents 1, 3, 5 and 6 on 10.03.2021 by producing the copy of the order and then the date was fixed on 23.04.2021. The fifth respondent Tahsildar also wrote a letter to the third respondent Inspector of Police and requested to provide



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adequate police protection. The 9th respondent now being the President of Veppankulam Village Panchayat by using his political influence, preferred a false complaint with the Sub Inspector Police, Kalligudi Police Station. Based on the complaint, enquiry was conducted on 22.04.2021. On 22.04.2021, the petitioner produced all the records to the Sub Inspector of Police, Kalligudi. But the Sub Inspector of Police sailed along with the 9th respondent and wrote a letter to the fifth respondent stating that it is a civil dispute. Thereafter, on 01.05.2021 the petitioner made a written representation to the respondents 3 and 5 and thereafter, filed a civil suit. Again the respondents 5 and 6 for the second time arranged for survey of the land on 18.06.2021. But the respondents 8 and 9 prevented the Surveyor and the Police personnel on the ground that civil suit in O.S. No.105 of 2021 is pending. The respondent Police were not take any action and they were remained as silent spectator. On 21.06.2021, the petitioner made a representation to the first respondent to implement the orders of this Court and direct the Kalligudi Police to register criminal case against the private respondents.



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4. Again on 20.07.2021 third survey attempt was made to survey the property, but the private respondents obstructed to survey the land, the respondents have no right over the property. This Court in W.P. (MD)No.13465 of 2020 by order, dated 05.10.2020 issued certain directions and guidelines to conduct survey and the same has not been considered and therefore, the present Writ Petition is filed.

5. No representation for the private respondents and no counter filed by the respondents.

6. The learned counsel for the petitioner contended that the petitioner purchased the property in the year 2015 through a sale deed, dated 09.04.2015 and the ninth respondent is the vendor of the previous owner of the said property and he sold the property to Subburaman, who is the brother of the petitioner and the petitioner purchased the property from said Subburaman. Already the said Subburaman filed Writ Petition to measure the property and police protection also granted by this Court. Thereafter, the petitioner purchased the property and when he attempted to survey the land, the private respondents who have no right over the property objected



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and thereby, he filed the present petition. As per the directions of this Court, the Revenue Officials have taken steps to conduct survey, at the time, the private respondents caused obstructions and the police also not taken any steps and hence, the petitioner has filed the present Writ Petition.

7. learned Additional Public Prosecutor appearing for the official respondents contended that already the petitioner has filed petition seeking Police protection and the Police also went to the place of occurrence and two times the Revenue Officials prepared to survey the land i.e., on 18.06.2021 and 20.07.2021 respectively. But the private respondents obstructed alleging that they filed suit in O.S.No.105 of 2021 before the civil Court and the same is pending for adjudication and they are also share holders of the property and thereby, they raised objections and based on that not able to give police protection.

8. Heard the learned counsel on either side and perused the materials available record.



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9. On perusal of records, it is seen that there is a civil dispute pending between the parties with regard to disputed property. According to the petitioner, the property belongs to him and the private respondents are noway connected with the property. However, the civil suit in O.S.No.105 of 2021 has been filed by the private respondents and the same is pending before the District Munsif Court, Thirumangalam, it is well settled law that in order to measure the private properties without clear title and without any executable decree, the Police protection cannot be given as per the judgment passed by the Hon'ble Supreme Court.

10. In this case also, there is a civil dispute pending between the parties and no executable decree in favour of the petitioner to seek Police protection. However, this Court has ordered for Police protection earlier, thereafter, the Police also given Police protection to the petitioner for measuring the property, at the time the private respondents obstructed by disputing title of the property, based on the pending suit in O.S.No.105 of 2021. Thereafter, the Police also unable to give protection to measure the property.



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11. To that effect the Surveyor also passed an order and the copy of the order also produced before this Court. Based on that report, already steps were taken to measure the property and due to the pendency of the case in O.S.No.105 of 2021 the private respondents have objected. Therefore, in view of the pending civil suit and without any executable decree in favour of the petitioner, the Police protection cannot be given for the private property disputes. In view of the same the Writ Petition is liable to be dismissed.

12. However, the prayer of the petitioner is that to direct the respondents 5 to 7 to lodge a complaint against the private respondents for preventing the discharge of their official duties in surveying the land. Since there is a civil dispute pending between the parties and they raised objections and thereby, the respondents 5 to 7 unable to measure the property. If at all, the petitioner is aggrieved, if any criminal acts done by the private respondents they can approach the concerned Judicial Magistrate in accordance with law. This Court cannot pass any direction to lodge a complaint by the respondents 5 to 7 and also this Court cannot direct the



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third respondent to register a case. The petitioner has to approach the appropriate forum to register a case.

13. As far as the prayer with regard to Police protection is concerned, as stated supra, he is not entitled to any relief with regard to the Police protection.

14. In view of the above discussion, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No

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