

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.04.2015

Coram

The Hon'ble Mr. Justice T.S. SIVAGNANAM

W.P. No.29926 of 2014

Pachamuthu

.. Petitioner

Vs

- 1.The State of Tamil Nadu,
Rep., by its Secretary,
Home Department,
Fort St., George,
Chennai - 600 009.
- 2.The State of Tamil Nadu,
Rep., by the Director General of Police,
Chennai - 600 004.
- 3.The Assistant Commissioner of Police (Law & Order),
Salem (South),
Salem.
- 4.The State of Tamil Nadu,
Rep., by the Inspector of Police,
Kondalampatty Police Station,
Salem - 636 010.
- 5.Balasubramanian
The Sub Inspector of Police,
Kondalampatty Police Station,
Salem - 636 010.
- 6.Rajasekar
The Sub Inspector of Police,
Kondalampatty Police Station,
Salem - 636 010.
- 7.Ms.Chitra,
The Sub Inspector of Police,
All Women Police Station,
Kondalampatty,
Salem - 636 010.

8.Varadan

The Sub Inspector of Police,
Kondalampatty Police Station,
Salem - 636 010.

9.Sithan

The Sub Inspector of Police,
Kondalampatty Police Station,
Salem - 636 010.

10.Shanmugham,

Village Administrative Officer,
Amani Kondalampatty,
Salem - 636 010.

11.Valliappan

12.K.Kumar

13.R.Kannan .. Respondents

Prayer :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus to forbear the Police authorities, namely, the respondents 4 to 10 from in any manner interfering with the civil disputes of the petitioner with the respondents 11 to 13 in respect of the petitioner's property comprised in Survey No.3/5A, situated at Amani Kondalampatti village, Salem Taluk, Salem - 636010.

For Petitioner .. Mr.K.Selvaraj

For Respondents .. Mr.R.Vijayakumar
Addl. Government Pleader for RR1-4

No Appearance for R5 to R13

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2.Heard Mr.K.Selvaraj, learned Counsel appearing for the petitioner, Mr.R.Vijayakumar, learned counsel appearing for the respondents 1 to 4.

3. The petitioner has filed this Writ Petition for issuance of a Writ of Mandamus, to forbear the Police Authorities namely, the respondents 4 to 10 from in any manner interfering with the civil

dispute of the petitioner with the respondents 11 to 13 in respect of property in question.

4. Several documents have been filed in the typed set of papers along with photographs to show how the property existed and subsequently Revenue Authorities and Police Authorities have entered into the property. The photographs show the presence of Police man including a lady constable and these Police Personnel have been identified to be the respondents 5 to 9. The Village Administrative Officer has also been impleaded as 10th respondent and three private parties as respondents 11 to 13.

5. The Writ Petition was admitted on 18.11.2014 and an interim order of injunction was granted, which is to the following effect:-

Notice returnable by two weeks. Private notice permitted.

2. The decree, on the basis of which, the contesting respondents came up before this Court by way of a writ petition in W.P.No.20503 of 2014 and obtained an order from me on 11.08.2014, related to S.F.No.3/4B, as seen from the Lok Adalat award in O.S.No.928 of 2013, on the file of the First Additional District Munsif Court, Salem. However, the photographs show that with the help of the Revenue Department and the Police, the respondents 12 and 13 have put up a notice board as though S.F.No.3/5A belongs to them. Therefore, there appears to be a foul play prima facie.

3. Hence, there will be an interim order of injunction, the Police shall ensure that the respondents 4 to 13 do not interfere in respect of S.F.No.3/5A. The Assistant Commissioner of Police (Law & Order), who is the third respondent herein, is directed to file a report to this Court as to the action taken in pursuance of this order, on 02.12.2014.

4.Call on 02.12.2014.

6. Subsequently when the matter was heard by this Court on 13.04.2015, there was no report given by the Assistant Commissioner of Police (Law and Order). Therefore, this Court has passed the following order:-

Prima facie, it shows that the Assistant Commissioner of Police (Law and Order) the third respondent herein, has disobeyed the order passed by this Court on 18.11.2014 and there is no report in place. However, before passing any harsh order, one opportunity is granted to the third respondent to file his report on or before 17.04.2015, after furnishing advance copy to the learned counsel for the petitioner.

2. List the matter on 17.04.2015.

7. Pursuant to the above order, a status report has been filed by Mr.V.Raveendran, Assistant Commissioner of Police, South Range (Law and Order), Salem City Police. The status report is in effect a denial of the allegations made by the Writ Petitioner. It is stated in the status report that the Police Officials have not interfered with the civil rights. Further, it appears that based on the compliant given by the petitioner's son Shanmugam, a case has been registered against the respondents 12 to 14 and others in Crime No.47 of 2015. Likewise a complaint given by the respondents 12 and 13 against the petitioner and 5 other family members, a case has been registered in Crime No.48 of 2015 and the same are pending investigation and both the Crime Numbers are being investigated by the Sub-Inspector of Police, B6, Kondalampatty Police Station, Salem City.

8. A counter affidavit said to have been signed in December 2014, has been filed by the third respondent and the said affidavit has been signed by Mr.R.Rajendran, Assistant Commissioner of Police (Law and Order).

9. On a perusal of the counter affidavit filed by Mr.R.Rajendran, Assistant Commissioner of Police (Law and Order), it is seen that there is a contradiction as regards the facts as stated in the status report filed by Mr.V.Raveendran Assistant Commissioner of Police. From the counter affidavit, sworn to by Mr.R.Rajendran, it is evident that the Police Personnel were present in the scene. Therefore, prima facie, the averments made by the petitioner stand established and the photograph also gives the correct picture. However, a stand has been taken by Mr.R.Rajendran, Assistant Commissioner of Police that the Police protection was given only to the Revenue officials for measurement of the land, however, since there was an objection, the land was not measured. Furthermore, the Police officials are aware that a civil litigation is pending before the parties in O.S.No.698 of 2014.

10. In such circumstances, if there is a dispute with regard to the title to the property, then obviously, the Police Authorities cannot interfere with the same and allow the parties to agitate their respective rights before the Civil Court of competent jurisdiction. Infact the relief sought for by the petitioner was also to the said effect. The legal position is very clear that the Police under the guise of investigation cannot step into the realm of civil jurisdiction and try to interfere with the Civil rights of parties. With the above observations, the Writ Petition stands disposed of.

11. In the light of the order passed in the main Writ Petition,

no orders are required in M.P.No.1 of 2015 and the same is closed.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

pbn
To

- 1.The Secretary,
The State of Tamil Nadu,
Home Department,
Fort St., George,
Chennai - 600 009.
 - 2.The Director General of Police,
Chennai - 600 004.
 - 3.The Assistant Commissioner of Police (Law & Order),
Salem (South),
Salem.
 - 4.The Inspector of Police,
Kondalampatty Police Station,
Salem - 636 010.
 - 5.The Public Prosecutor, High Court, Madras.
- 1 cc to Mr.K.Selvaraj ,Advocate, SR.No.23597
1 cc to Government Pleader,Sr.No23718

W.P. No.29926 of 2014

mp(co)
pmk.21.5.2015

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