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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2016

CORAM :

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO

and

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Petition (MD) No.13604 of 2013

Rev.Raja Christopher,
The Paris Priest,
Adai Mithippankulam, Tharuvai Village,
CSI Christ Church, Araikulam Pastorate,
Tirunelveli District 627 356.

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District.

2.The Superintendent of Police,
Tirunelveli District.

3.The Revenue Divisional Officer,
Palayamkottai, Tirunelveli District.

4.The Tahsildar,
Palayamkottai, Tirunelveli District.

5.The Inspector of Police,
Muneerpallam Police Station,
Tirunelveli District.

6.G.Vetrivel

7.Rasiah Nadar

8.Kumaresan

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1st and 2nd respondents to conduct an enquiry into the interference by the respondents 3 to 7 in the exercise of the petitioner right over the land in Survey No.1248/23, Adaimithippankulam, Tharuvai Village and to take necessary action on the representation of the Petitioner.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents 1-5 : Mr.A.K.Baskarapandian,
Additional Government Pleader.

For 8th Respondent : Mr.M.Sankar

For Respondents 6 & 7 : Mr.K.Mahendran

**ORDER**

(Order of the Court was made by **NOOTY.RAMAMOHANA RAO,J**)

This writ petition is instituted by Sri.Rev.Raja Cristopher, seeking the following relief:

"Writ directing the respondents 1 and 2 to conduct an enquiry into the interference by the respondents 3 to 7 in the exercise of the petitioner's right over the land in S.No.1248/23, in Adaimithippankulam in Tharuvai Village and to take necessary action on the representation of the petitioner".

2.It was the claim of the petitioner that he is the Parish Priest of Tirunelveli Diocese of Church of South India. It is the specific case that patta was granted in respect of the land in question in S.No.1248/2013 measuring about 16 cents. According to the petitioner, this particular land is used as a playground to the students of a school run by the Church of South India. On the ground that the petitioner has been prevented by third parties from using effectively and in the manner considered as appropriate and suitable by him, he came up with the present writ petition.

3.So long as the patta granted stands in favour of the petitioner and so long as the State or its machinery is not seeking to divest the writ petitioner of his title to the said land in accordance with law, if any interference is caused by any third party it shall be always open to the true owner and or the title holder to sue those people who are found causing such interference with the right to use the property. If a Superintendent of Police or for that matter, the District Collector or the Revenue Divisional Officer or the Deputy Superintendent of Police or the local Tahsildar or the Inspector of Police do visit and inspect certain places, they do so for the purpose of maintaining law and order in the locality whenever they have perceived a threat or breach of peace in the locality. In all other respects, if there is an interference caused by any party in the matter of exercise of right of another party over immovable property, the appropriate remedy lies in approaching the competent Court of civil jurisdiction and secure either declaration or grant of appropriate injunction. In a proceeding under Article 226, complicated questions of fact cannot be resolved satisfactorily since it requires collection of evidence both oral and documentary. It may not be very easy to decide a seriously disputed question of fact on the strength and basis of the affidavits drawn and filed by the respective parties.

<https://hcservices.ecourts.gov.in/hcservices>, therefore, appropriate that the parties must be left with liberty to approach the competent Court of civil jurisdiction and secure resolution of their disputes. We,



accordingly, preserve liberty to the petitioner to approach the competent Court of civil jurisdiction and sort out the interference caused to the right of the petitioner over a parcel of land over which patta was granted in his favour. It is needless for us to observe that we have not passed any orders one way or the other with regard to the status report filed by the District Collector in the matter on 21.12.2014.

5.The writ petition is accordingly disposed of. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The District Collector,
Tirunelveli District.
- 2.The Superintendent of Police,
Tirunelveli District.
- 3.The Revenue Divisional Officer,
Palayamkottai, Tirunelveli District.
- 4.The Tahsildar,
Palayamkottai, Tirunelveli District.
- 5.The Inspector of Police,
Muneerpallam Police Station,
Tirunelveli District.

+1cc to Mr.K.MAHENDRAN,Advocate Sr.No. 33637
+1cc to Spl.Government Pleader Sr.No. 33201
SMS
AA/KBM/15.07.2016/3p-8c

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