

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2017

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THE HONOURABLE MR. **JUSTICE R.MAHADEVAN**

Writ Petition No.1194 of 2017

K.Kasi

... Petitioner

Vs.

- 1 The Superintendent of
Police Salem Salem District.
- 2 The Inspector of Police
Omalur Police Station Omalur Taluk Salem
District.
- 3 The Tahsildhar
Omalur Omalur Taluk Salem District.
- 4 The Village Administrative
Officer Semmandapatti Village Omalur Taluk
Salem District.
- 5 The EX-President
Semmandapatti Village Omalur Taluk Salem
District.

... Respondents

Writ petition has been filed under Article 226 of the
Constitution of India, praying for a Writ of mandamus directing the

respondents 1 & 2 to provide police aid or Assistance to implement the Civil Court order and decree passed in O.S.No. 319 of 2004 dated 29.09.2010 for restoring the possession of land in S.No. 251/2 an extent of 15 cents at Semmandapatti Village, Omalur Taluk, Salem District.

For Petitioner : Mr.M.Elango

For Respondents : Mr.C.Emalias,
Addl. Public Prosecutor

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the respondents 1 and 2 to provide police aid or assistance to implement the Civil Court order and decree passed in O.S.No.319 of 2004 dated 29.9.2010 for restoring the possession of land in S.No. 251/2 measuring to an extent of 15 cents at Semmandapatti Village, Omalur Taluk, Salem District.

2. It is the case of the petitioner that he is the owner of the land in S.No.251/2 measuring to an extent of 15 cents at Semmandapatti Village, Omalur Taluk, Salem District, and the

petitioner and his brothers are in possession and enjoyment of the same by cultivating the land. While so, the fifth respondent made an attempt to lay road in the said land. Hence, the petitioner filed a suit in O.S.No.319 of 2004 before the learned District Munsif cum Judicial Magistrate, Omalur, for permanent injunction and the said suit was decreed as prayed for. Thereafter, after 11 years, the fifth respondent along with coolies trespassed into the said land on 27.12.2016 and levelled the area to an extent of 15 cents by engaging JCB vehicle. The petitioner made a protest showing the order of the civil Court. Ignoring the same, he was beaten by them. Therefore, the petitioner preferred a complaint before the second respondent seeking police protection. However, the second respondent has turned down his request. Hence, the petitioner has come up with the present petition seeking a direction to the second respondent to provide police protection for restoring the possession of his land.

3. Learned counsel appearing for the petitioner submitted that even after obtaining decree in his favour from the competent civil Court, the fifth respondent levelled the area of the petitioner to an extent of 15 cents by engaging JCB vehicle and hence, on the strength of the decree, he requested the second respondent police to give

police protection for restoring the possession of his land. Learned counsel appearing for the petitioner further submitted that in identical situation, this Court, in the case of **Radhika Sri Hari and another v. Commissioner of Police** reported in **2014 (2) CTC 695**, has held that the petitioner in that case would be entitled to police protection as prayer for. Thus, he sought for similar direction in this petition also.

4. On the above submissions, I have heard also the learned Additional Public Prosecutor and perused the entire materials available on record.

5. In the decision reported in **2014 (2) CTC 695 - Radhika Sri Hari and another v. Commissioner of Police**, in paras 7 and 8, this Court has held as follows:-

" 7. In the aforesaid circumstances, this court considers it appropriate to refer to report of the committee constituted by the Government in G.O.(3D) No.42, Home dated 30.06.2008 towards review of the system of treating complaints relating to money and land matters and to suggest a legally acceptable methodology.

The report of such committee touching upon several issues, was accepted by Government. Having done so, under G.O.Ms.No.1580 Home (POL.VII) Department dated 24.11.2008, the Director General of Police was required to circulate the report along with the 14 point guidelines annexed to such Government order to police officers/stations for appropriate adherence. Under C.No.43/CRB/CSP/2008 dated 08.12.2008, the Commissioner of Police, Chennai Sub-Urban, has caused communications to all Deputy Commissioners, Assistant Commissioners and Inspector of police for necessary action. Guideline 11 issued by the committee reads as follows:

"11. When police protection is sought for the implementation of a civil court order it should be given readily. Police should not insist on a specific court direction to give police protection."

8. What is informed above makes clear that the petitioner would be entitled to police protection as prayed for. Criminal original petition is allowed. There will be a direction to respondents to provide police protection to the petitioners for a period of three weeks from the date of receipt of a copy of this order towards enabling them raising fresh barbed wire fences on their property. The same will be at the cost of the petitioner. "

Hence, as per the Guideline 11 issued by the committee constituted by the Government in G.O.(3D) No.42, Home dated 30.6.2008, when police protection is sought for, for the implementation of a civil court order, it should be given readily. In the instant case also, the petitioner has obtained decree in his favour from the competent civil Court and the same is now in force. Hence, based on the said decree, the petitioner is entitled to get police protection for restoring the possession of his land.

6. In the result, the writ petition is allowed and the second respondent police is directed to provide adequate police protection to the petitioner for a period of three weeks from the date of receipt of a

copy of this order to implement the decree passed in O.S.No.319 of 2004 dated 29.9.2010 for restoring the possession of land in S.No.251/2 measuring to an extent of 15 cents at Semmandapatti Village, Omalur Taluk, Salem District. However, the same will be at the cost of the petitioner. No costs.

18.01.2017

Index:Yes/No
sbi

To

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R.MAHADEVAN, J

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