

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.15250 of 2017

V. Duraisamy

... Petitioner

Vs

1. The Inspector of Police,
Mettupalayam Police Station,
Mettupalayam

2. Selvaraj
3. Palani
4. Kittan
5. Kannian
6. Bannari

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus directing the first respondent police viz., the Inspector of Police, Mettupalayam Police Station, Mettupalayam to provide police protection to the petitioner herein to put up fence in his property comprised at S.F.No.41/1A of Odanthurai village, Mettupalayam Taluk, Coimbatore District.

For Petitioner : Mr.J. Pothiraj

For 1st respondent: Mr.D. Vairamurthy
Spl.Government Pleader

ORDER

The present Writ Petition has been filed seeking to issue a Writ of Mandamus to direct the first respondent viz., the Inspector of Police, Mettupalayam Police Station, Mettupalayam to provide police protection to the petitioner to put up fence in his property comprised at S.F.No.41/1A of Odanthurai village, Mettupalayam Taluk, Coimbatore District in compliance with the law declared by this Court in Radhika Sri Hari Case (2014 (2) CTC 695).

2. According to the learned counsel for the petitioner, the suit, which is said to be filed in O.S.No.1177 of 1992, came to be decreed in his favour on 26.10.1994 by the learned District Munsif, Coimbatore, which has not been challenged till date.

3. Learned counsel appearing for the petitioner submitted that even after obtaining interim injunction in favour of the petitioner, the accused has been continuously giving trouble to the petitioner and hence, on the strength of interim injunction, he requested the respondent police to give police protection to fence his lands. 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 Special Government Pleader and perused the entire materials available on record. Notice to the respondents 2 to 6 are disposed with.

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 an interim injunction in his favour from the competent civil Court and the same is now in force. Hence, based on the said order, the petitioner is entitled to get police protection to fence his property.

6. In the result, the Writ Petition is allowed and the 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 enable him to fence his property. However, the same will be at the cost of the petitioner. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

sr
To

1. The Inspector of Police,
Mettupalayam Police Station,
Mettupalayam

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.J.Pothiraj,Advocate sr.43190
+1cc to Government Pleader sr.43459

W.P.No.15250 of 2017

skv(co)
ss(29/6/2017)