



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.09.2017
CORAM
THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
W.P. (MD) .No.16722 of 2017

WEB COPY

V.Sethuraman

...Petitioner

Vs.

1.The Superintendent of Police,
Madurai District, Madurai.

2.The Inspector of Police,
Tirumangalam Town Police Station,
Tirumangalam, Madurai District.

3.The Sub Inspector of Police,
Kalligudi Police Station,
Madurai District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the second respondent to register a case against the alagar, S/o.Palani based on the complaint given by the petitioner on 01.08.2017 and 26.08.2017 to the respondents.

For Petitioner :Mr.R.Ramasamy

For Respondents :Mr.A.K.Baskara Pandian
Special Government Pleader

O R D E R

This Writ petition has been filed by the petitioners for issuance of a Writ of Mandamus, to direct the second respondent to register a case against one Alagar, S/o.Palani based on the complaints given by the petitioner on 01.08.2017 and 26.08.2017.

2.Mr.A.K.Baskara Pandian, learned Special Government Pleader, takes notice for the respondents. By consent, the writ petition itself is taken up for final disposal.

3.The case of the petitioner is that, the petitioner got a property through a gift settlement from his own Brother, one Jyothi Ramalingam and that the same was registered in the office of the Sub-Registrar, Tirumangalam, vide Doc.No.7593/2012, dated 12.09.2012. It is submitted that the



petitioner's family was enjoying the property for more than 40 years and that the Patta was in the name of his brother. It is the further case of the petitioner that as patta was not transferred to his name, he has filed a petition for change of patta in his name.

WEB COPY

4. In these circumstances, the petitioner stated that he paid fee for measuring his land through District Surveyor. It is stated that one Alagar, interfered with deadly weapons and not allowed the Surveyor and VAO to measure the petitioner's land. In these circumstances, the petitioner has given a complaint on 07.01.2017, before the respondents. Since no action was taken by the respondent police, the petitioner was constrained to file this petition.

5. The petitioner has raised several grounds in this writ petition, stating that the failure to protect the petitioner's right will amount to violation of Right to Life guaranteed under Article 21 of Constitution of India. It is further stated that the right of the petitioner being trammelled upon, the respondent who is the law enforcing agency, ought to have exercised his power in taking action on the basis of the complaint / representation given by the petitioner. The petitioner has not impleaded the person against whom, he has problems. Though several allegations were made against the individual, the petitioner consciously failed to implead him as a party.

6. Be that as it may, the contention of the petitioner, as per the affidavit filed in support of the writ petition clearly disclose that there is a civil dispute between the petitioner and one Alagar, in respect of the property, which according to the petitioner was obtained under the settlement deed. It is to be noted that question of possession & enjoyment of the property or right, title and interest over a property in dispute cannot be gone into by the police officials, as they are not experts in finding out the truth or otherwise of the allegations and documents on the basis of which the petitioner claim title and enjoyment. It is also the position that the respondents are not given such authority. It is only the Civil Court, which is competent to decide the question of title or the lawful enjoyment of a person.

7. In such circumstances, having regard to the nature of averments, this Court is of the view that the petitioner should approach the Civil Court for appropriate relief. Hence this Writ Petition is dismissed, however with a liberty to the petitioner to approach civil court. If the petitioner is able to convince the Civil Court for getting an interim injunction, it is open to the petitioner to seek a further direction before the Civil Court for police protection. If such direction is issued for providing police protection, the petitioner may seek assistance of the



revenue as well as the police authorities to enable them to measure/survey his land. No Costs.

Sd/-

Assistant Registrar(AD-II)

WEB COPY

/True Copy/

Sub Assistant Registrar

To

- 1.The Superintendent of Police,
Madurai District, Madurai.
- 2.The Inspector of Police,
Tirumangalam Town Police Station,
Tirumangalam, Madurai District.
- 3.The Sub Inspector of Police,
Kalligudi Police Station,
Madurai District.

+1cc to M/S.R.RAMASAMY, Advocate SR.No.76759

+1cc to Special Government Pleader, SR.No. 77351

CMR

MAS/KK/SAR1:25.09.2017:3P-6C

W.P. (MD) .No.16722 of 2017
05.09.2017