



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P.(MD).No.2609 of 2017

Senthamilselvi

.. Petitioner

Vs.

1.The Superintendent of Police,
O/o. Superintendent of Police, Pudukkottai.

2.The Inspector of Police,
Keeramangalam Police Station, Pudukkottai District.

3.M.Ganesan.

.. Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st respondent to direct the 2nd respondent to provide necessary police protection to survey the petitioner's land in S.F.No.120/12B2B and S.F.No.120/16 situate at Kothamangalam North Village, Alangudi Taluk, Pudukkottai District, as per the proceedings of the Tahsildar, Alangudi in Na.Ka.No. /16/S, dated 18.01.2017 by considering the petitioner's representation, dated 28.01.2017.

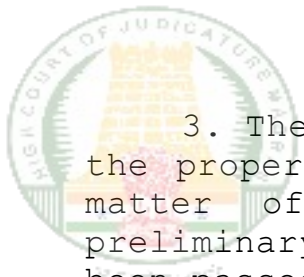
For Petitioner :Mr.K.Baalasundharam

For Respondents :Mr.T.S.Mohammed Mohindeen for R1 & R2
Additional Government Pleader
Mr.N.Balakrishnan for R3

ORDER

It is the case of the petitioner that she has purchased land in S.F.No.120/12B2B and S.F.No.120/16 by a deed of sale from one Rengasamy and had obtained title to the property in S.F.No.120/16 by way of a settlement deed dated 13.11.2009 and that when the petitioner went to measure the lands, she is being prevented by the third respondent and therefore, the petitioner is before this Court for a direction to the police to give protection to the Tahsildar for survey the land.

2. Heard Mr.K.Baalasundharam, learned counsel for the petitioner, Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader for the respondents 1 and 2 and Mr.N.Balakrishnan learned counsel for the third respondent. <https://hservices.ecourts.gov.in/hservices/> Sub Inspector of Police, Keeramangalam Police Station, Pudukkottai District is present in Court today.



3. The learned counsel for the third respondent submitted that the property which the petitioner wants to survey is the subject matter of partition suit in O.S.No.421 of 1982 in which preliminary decree alone has been passed and no final decree has been passed.

WEB COPY

4. In **G.Krishnan v.Smt.Thulasi Ammal**, reported in **1991-1-L.W. (513)**, a learned Single Judge of this Court has held as follows:-

"8.It should not be forgotten that in a Writ Petition under Article 226 of the Constitution of India, the Police Officials are impleaded as parties and directions are sought against them. The basic requirements of a Writ of Mandamus are that there should be a public duty on the part of the Officials and there is failure to perform the duty in spite of their being called upon to do so. Both the requirements will be absent if in a civil proceeding, to which the police officials are not parties, a direction is sought from the Court to the Police Officials without any approach to them in the first instance by the party who seeks relief."

5. In the considered opinion of this Court, when there is a civil dispute between the parties, this Court cannot issue any direction for police protection as prayed for by the petitioner. It is open to the petitioner to work out her remedies before the Civil Court, since the Writ Court cannot go in the disputed questions of facts.

6. With the above observation, this writ petition is closed.
No costs.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1.The Superintendent of Police,

O/o.Superintendent Office, Pudukkottai.

2.The Inspector of Police,

Keeramangalam Police Station, Pudukkottai District.

+1 cc to Mr.K.Baalasundharam, Advocate, SR.No.17709

+1 cc to Mr.N.Balakrishnana, Advocate, SR.No.17503

+1 cc to Special Government Pleader SR.No. 17631

Order made in
W.P. (MD) .No.2609 of 2017
23.03.2017