



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P(MD)No.19645 of 2016

and

W.M.P(MD)Nos.14152 and 14153 of 2016

Sakthivel

... Petitioner

vs.

1.The Tahsildar,
Avudaiyar Kovil Taluk,
Avudaiyar Kovil,
Pudukottai District.

2.The Sub Inspector of Police,
Yembal Police Station,
Yembal, Pudukkotai District.

3.Muthuvel
4.Lalitha

... Respondent

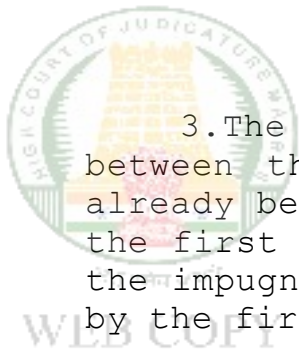
PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Certiorari to call for the records relating to the order of the first respondent dated 21.09.2016 made in his proceedings Na.Ka.No.3157/2016/A1 and quash the same.

For Petitioner : Mr.V.Sitharanjandas
For Respondents : Mr.T.S.Mohammed Mohideen
Additional Government Pleader
for R1 and R2
Mr.K.Balasundharam for R3 and R4

O R D E R

The petitioner is aggrieved against the order of the first respondent, dated 21.09.2016, directing the second respondent police to give protection to the third respondent for cultivating the land in view of the order passed by the District Munsif Court, Aranthangi, in O.S.No.10 of 2016, dated 23.02.2016.

2.Heard the learned counsel appearing for the petitioner, learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the respondents 3 and 4.



3.The grievance of the petitioner is that when the dispute between the parties in respect of subject matter property, has already been seized of by the civil Court and the same is pending, the first respondent has acted without any jurisdiction and passed the impugned order, which in effect is a parallel proceedings made by the first respondent.

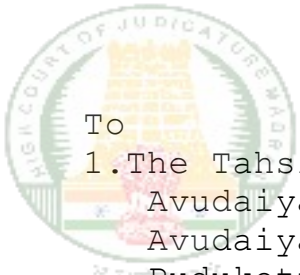
4.No doubt, the first respondent in the counter affidavit justified the order impugned in this writ petition by contending that the same came to be passed, in view of the order passed by the civil Court.

5.Upon hearing the learned counsels appearing on both sides, it is seen that, indisputably, both the parties approached the civil Court and filed their respective suits one against each other and both the suits are still pending. No doubt, in one suit filed by the 4th respondent, it appears that some interim order has been passed in her favour. However, it is contended by the learned counsel for the petitioner that as against the said order, already a Civil Miscellaneous Appeal is filed and the same is pending. Needless to say that when the matter is seized of by the civil Court, the role of the revenue authority to proceed parallelly and pass some orders that too in the nature of giving direction to the police to give protection to one of the parties, is not only an unwarranted action, but also without any competency. It is for the parties to resolve their dispute before the competent civil Court and even if some order is sought to be executed, it should be done in the manner provided under the Code of Civil procedure. When such being the position, the order passed by the Tashildar, namely, the first respondent herein, cannot be sustained. At the same time, if the respondents 3 and 4 are armed with an order of interim injunction, unless and until, the same is set aside by the appellate Court, the petitioner cannot violate the said order by any means. On the other hand, if there is any violation, it is open to the respondents 3 and 4 to approach the Court, which has granted interim injunction and seek appropriate consequential relief as well by making appropriate application. In any event, the revenue official, namely, the first respondent herein cannot usurp for the jurisdiction when the matter is seized of by the civil Court.

6.Accordingly, the Writ Petition is allowed and the impugned order is set aside. It is open to the respective parties to approach the competent civil Court and seek for appropriate relief. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)



To

1.The Tahsildar,
Avudaiyar Kovil Taluk,
Avudaiyar Kovil,
Pudukottai District.

2.The Sub Inspector of Police,
Yembal Police Station,
Yembal, Pudukkottai District.

+1 cc to M/s.K.Baalasundharam, Advocate in SR.No. 237
+1 cc to The Special Government Pleader in SR.No.219
+1 cc to M/s.V.Sitharanjandas , Advocate in SR.No. 67

skn

CSL/SS2-KSM/24.01.2017 : 3P/6C

W.P(MD)No.19645 of 2016

and

W.M.P(MD)Nos.14152 and 14153 of 2016

02.01.2017