



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 08.03.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P(MD)No.3777 of 2013

L.Gamali

..Petitioner

.vs.

1.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

2.The Inspector of Police,
Kollamcode Police Station,
Kanyakumari District.

3.Thulasi.

4.Vijayan

5.Kamalasanan

6.The Kollamcode Panchayat,
represented by the President,
Kollamcode and Post,
Kanyakumari District.

7.The Tahsildar,
Vilavankode Taluk,
Kanyakumari District

..Respondents

(Respondents 6 and 7 are impleaded as per order of this Court made in M.P(MD)No.1 of 2013, dated 8.3.2017)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 and 2 to give police protection to the Petitioner at the time of constructing the compound wall in his property having an extent of 22.721 cents comprised in Resurvey No.166/6, Kollamcode Village, Venganji Desam, Vilavankode Taluk, Kanyakumari District.



WEB COPY

For Petitioner : Mr.M.Suri

For Respondents : Mr.S.Kumar
1, 2 and 7 Addl.Govt.Pleader

For Respondents : Mr.Sreekumaran Nair
3 to 5

For Respondent-6 : Mr.Aayiram K.Selvakumar

ORDER

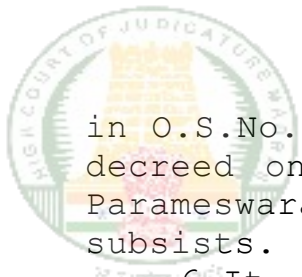
This Writ Petition has been filed seeking for issuance of a Writ of Mandamus directing the respondents 1 and 2 to give police protection to the Petitioner at the time of constructing the compound wall in his property having an extent of 22.721 cents, comprised in Resurvey No.166/6, Kollamcode Village, Venganji Desam, Vilavankode Taluk, Kanyakumari District.

2.Heard the learned counsels appearing on either side and perused the materials placed before this Court.

3.The Petitioner claims to have purchased the property from one Parameswaran Nair under a sale deed, dated 13.09.2011. The said Parameswaran Nair claims title to the property by virtue of a Final Decree in O.S.No.924 of 1971, on the file of the District Munsif Court, Kuzhithurai. It is also claimed that Parameswaran Nair took delivery of the property in E.P.No.1 of 2009 on 13.01.2009. Pursuant to the purchase, the Petitioner has also got the revenue records mutated. According to the Petitioner, since the respondents 3,4 and 5 attempted to interfere with the Petitioner's possession, he had filed a Police complaint and has followed it with this Writ Petition, for Police protection.

4.The 7th respondent/The Tahsildar, Vilavancode Taluk, Kanyakumari District has filed a counter, wherein, it is stated that the Petitioner is not in possession of the property alleged to have been purchased by him under sale deed, dated 13.9.2011.

5.Mr.Srikumaran Nair, learned counsel for the respondents 3 to 5 would produce a copy of the decree in O.S.No.299/2009, wherein, the respondents 3 and 4 have filed a suit against Parameswaran Nair for permanent injunction and the said suit has been decreed after contest on 22.12.2014. Yet another suit in O.S.N0.555 of 2010 has been filed by one Pappathi claiming partition and for a declaration that the preliminary and final decree in O.S.No.924 of 1971 are nullity. It will be pertinent to <https://hseervicesecounts.gov.in/hseervices> that the vendor of the Petitioner Parameswaran Nair claims the property only under the decree in O.S.No.924 of 1971. It appears that the Petitioner was made a party to the said suit



in O.S.No.555 of 2010 as 11th defendant. The said suit came to be decreed on 22.12.2014. Thus the basis of the claim of title by Parameswaran Nair, the vendor of the Petitioner, no longer subsists.

6. It is claimed that appeals have been filed against O.S.Nos.299 of 2009 and 555 of 2010 and they are pending. In any event, since the Civil Court seized of the matter, I do not think it will be appropriate to direct police protection to the Petitioner, invoking Article 226 of the Constitution of India.

7. Hence, this Writ Petition is dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Kanyakumari District,
Nagercoil.

2. The Inspector of Police,
Kollamcode Police Station,
Kanyakumari District.

3. The President,
Kollamcode Panchayat,
Kollamcode and Post,
Kanyakumari District.

4. The Tahsildar,
Vilavankode Taluk,
Kanyakumari District.

+1cc to M/S THE SPECIAL GOVERNMENT PLEADER, SR.NO. 13476

+1cc to Mr.K.Sreekumaran Nair Advocate Sr.No. 13339

+1cc to Mr.M.Suri, Advocate Sr.No. 13123

vsn

AE/SKN/RSK/21.03.2017/3P/8C

W.P (MD) No.3777 OF 2013
08.03.2017