

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2018

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13554 of 2014
and
M.P.No.1 of 2014

1.Kanniga Parameswari

2.S.Saraswathi

Petitioner 1 and 2 rep by herein
power agent V.Arumugam

... Petitioners

-vs-

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

2.The District Collector,
Kancheepuram District,
Kancheepuram.

3.The Inspector of Police,
Guduvanchery Police Station,
Guduvanchery - 603 202.

4.Ravi,
Ward Member,
Nandivaram Guduvanchery Panchayat,
Guduvanchery - 603 202.

5.Dhandapani,
President,
Nandivaram Guduvanchery Panchayat,
Guduvanchery - 603 202.

6.Bharathidasan,
Water Supplier,
Mahalakshmi Nagar,
Village Nandivaram,
Nandivaram Guduvanchery Panchayat,
Guduvanchery - 603 202.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the

Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents 1 and 2 herein to extend protection to his person and property comprised of his lands situated at Nandivaram Village, within Guduvanchery Panchayat, Chengalpet Taluk, Kancheepuram District, comprised in Survey No.16,1A and 16,2A in all measuring 1 acre 20 cents.

For Petitioners :: Mr.D.Ashok Kumar

For R1 to R3 :: Mr.M.Elumalai
Government Advocate

For R4 & R5 :: M.Thenmozhi

For R6 :: No appearance

ORDER

The relief sought for in this writ petition is to direct the respondents 1 and 2 to extend protection to his person and property comprised of his lands situated at Nandivaram Village, within Guduvanchery Panchayat, Chengalpet Taluk, Kancheepuram District, comprised in Survey No.16,1A and 16,2A in all measuring 1 acre 20 cents.

2.The learned counsel appearing on behalf of the writ petitioners states that the General Power Agent of the writ petitioners 1 and 2 is a retired Deputy Collector and owing to his retirement he have been taking shelter at Tambaram and in the course of his activities he have come across his principal namely the writ petitioners above named and they are the absolute owners of the land situated in Nandivaram Village, in Guduvanchery Panchayat, Guduvanchery.

3.The grievances of the writ petitioners are that the local land grabbers are attempting to grab the land belonging to the writ petitioners. In this regard, he made a complaint to the respondents and no proper action was taken to safe guard the property belonging to the writ petitioners.

4.The learned counsel appearing for the writ petitioners urged this Court to peruse the communication issued by the first respondent in proceedings dated 03.03.2013, which is enclosed in page No.21 of the typed set of papers filed along with the writ petition. The said letter was communicated based on the application filed by the writ petitioners under the Right to Information Act.

5.The Public Information Officer/Additional Superintendent of Police (Crime), Kancheepuram District informed the General Power Agent of the writ petitioners that the persons who are attempting to grab the land belonging to the writ petitioners gave an assurance that they will not cause any nuisance at the time of measuring the land belonging to the writ petitioners and at the time of undertaking of the process of survey, the respondents will provide adequate protection to the writ petitioners. Relying on the said letter, the learned counsel appearing for the writ petitioners states that the writ petition is to be allowed and directions are to be issued to grant protection to the writ petitioners and the land belonging to them.

6.The preliminary question arises in respect of the maintainability of the writ petition for issuing a direction as such sought for in this writ petition. First of all, the title of the writ petitioners cannot be ascertained nor the findings can be provided in this writ petition. This apart, in respect of the disputes in relation to the title or otherwise are to be adjudicated before the Competent Civil Court and in the present writ proceedings, no such findings can be arrived. So also, the police protection can be sought for before the Competent Civil Court of law. For instance, if a suit is filed before the Competent Civil Court an Interlocutory Application shall be filed for the purpose of seeking protection under the provisions of the Code of Civil Procedure.

7.Contrarily, the writ petition filed under Article 226 of the Constitution of India neither the title nor the possession can be confirmed based on the certain xerox copies of the documents filed in this writ petition. The title of the property is to be established by way of complete adjudication in accordance with the procedures contemplated under the Code of Civil Procedure and such findings cannot be arrived based on the pleadings set out in the writ petition under Article 226 of the Constitution of India. सत्यमेव जयते

8.Relying on one communication issued by the Additional Superintendent of Police, the writ petitioners cannot say that they are the absolute owners of the land and the title is to be established in the manner known to law. In the event of establishing the title, the writ petitioners would be entitled for all other consequential reliefs for protection and other reliefs, if required. Thus, the very relief as such sought for in this writ petition cannot be considered and the police protection and other relief sought for in this writ petition is to be provided through appropriate proceedings before the Competent Civil Court and not by the High Court under Article 226 of the Constitution of India.

9.In this view of the matter, this Court is of an opinion that it is left open to the writ petitioners to approach the competent forum for the purpose of redressing their grievances and further, he should avoid filing this kind of writ petition before the High Court in respect of the title or otherwise of the property belonging to the writ petitioners.

10.Thus, the writ petition is devoid of merits and accordingly stands dismissed. Consequently, the connected Miscellaneous Petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar

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To

- 1.The Superintendent of Police,
Kancheepuram District,
Kancheepuram.
- 2.The District Collector,
Kancheepuram District,
Kancheepuram.
- 3.The Inspector of Police,
Guduvanchery Police Station,
Guduvanchery - 603 202.

+1cc to Government Pleader SR.No.28900

W.P.No.13554 of 2014

SSV(CO)
GN(16/05/2018)

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