

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 22.11.2018

CORAM:
THE HON'BLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.30390 of 2018

V.Rajasekar

... Petitioner

Vs.

1.The Superintendent of Police,
Namakkal District.

2.The Inspector of Police,
Mohanur Police Station,
Namakkal District.

3.K.Kamaraj
4.Vadivel
5.Kuppan
6.Kandhaan
7.Kochaladan
8.Murugan
9.Kuttadan
10.Valli
11.Kuppai

....Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 2nd respondent to give police protection to the petitioner for passage of goods and materials by tractors and other means through the Public pathway in Arunthathiyar Colony Street, Komaripalayam Village, Namakkal Taluk and District as per the Decree in O.S.No.1468 of 1971 dated 25.01.1972 and in furtherance of petitioner's representation dated 05.10.2018.

For Petitioner : M/s.R.S.Sivaram

For Respondents: Mr.M.Mohamed Riyaz
Additional Public Prosecutor
for R.1 and R.2

O R D E R

This petition has been filed for the issuance of writ of mandamus directing the second respondent police to give police protection to the petitioner for the purpose of accessing his property.

2.The petitioner claims to be the owner of a certain extent of landed property in S.Nos. 8/7 and 85 in Komaripalayam Village, Namakkal Taluk and District. According to him, to reach the said property and other lands, a pathway of 12 feet South-North (Southern side of the Arunthathiyar Colony) of S.No.8/3, is being used and in this regard, a Civil Suit in O.S.No.1468 of 1971 was also filed on the file of the Court of District Munsif, Namakkal and a compromise was reached and accordingly, a decree came to be passed on 25.01.1972.

3.The third respondent made an encroachment in the public pathway and therefore the petitioner approached this Court and filed W.P.No.9233 of 2018 seeking for appropriate direction. This Court on appreciation of the facts and circumstances of the case, disposed of the writ petition by an order dated 16.04.2018 by giving the following directions:-

"4.This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 3rd respondent to act upon the above cited communication of the 2nd respondent dated 24.04.2017 and shall cause inspection of the said area/land in question, within a period of four weeks from the date of receipt of a copy of this order and depending upon the result of the same, shall put the concerned person/s on notice and take appropriate action in accordance with law within a further period of ten weeks thereafter and communicate the decision taken, to the petitioner as well as to the person/s concerned."

4. Pursuant to the order passed by this Court, the Tahsildar, Namakkal Taluk, removed the obstruction in the public pathway.

5.The learned counsel for the petitioner would submit that the third respondent is instigating the respondents No.4 to 11 to cause obstruction and prevent the petitioner from having a free access in the public pathway. Therefore, a complaint was given to the second respondent police on 05.10.2018, seeking for police protection. In the mean time another complaint was lodged before the Superintendent of Police, Namakkal District on 10.10.2018. In spite of the complaint given before the first respondent police, no action has been taken by the respondent police and this petition has been filed seeking for police protection.

6.It is seen from the records that there is Civil Court decree in favour of Grand father of the petitioner. When an attempt was made by the third respondent to block the common pathway, the petitioner had approached this Court and this Court had issued an appropriate direction. Now, the third respondent has instigated the respondents No.4 to 11 to cause obstruction

in the public pathway.

7.This Court, taking into consideration the above facts and circumstances, without going into the merits of the claim projected by the petitioner, directs the second respondent to act on a complaint given by the petitioner on 05.10.2018, by calling the parties for an enquiry. If the second respondent finds that respondents No.4 to 11 are obstructing the public pathway without any right or title, they may be given appropriate instructions. If, inspite of the same, any obstruction is caused, the respondent police can act against them in accordance with law. If during the enquiry conducted between the parties, if the second respondent finds that the petitioner has to provided with police protection, the same may also be considered by the second respondent.

8.The writ petition stands disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gsp/vsg

To

1.The Superintendent of Police,
Namakkal District.

2.The Inspector of Police,
Mohanur Police Station,
Namakkal District.

3.The Public Prosecutor,
High Court of Madras. सत्यमेव जयते

+1cc to Mr.R.S.Sivaram, Advocate, S.R.No.80355

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CNR(CO)

rrs 21/12/2018