



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2018

CORAM:

THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A.[MD].No.94 of 2018
against WP(MD)No.21901/2016
and
C.M.P. (MD) No.463 of 2018

Muniyasamy : Appellant/3rd Respondent
Vs.

1.U.Ramalakshmi : 1st Respondent/Petitioner

2.The Superintendent of Police,
Ramanathapuram,
Ramanathapuram District.

3.The Inspector of Police,
Uchipuli Police Station,
Uchipuli,
Ramanathapuram District.

: 2&3 Respondents/1&2 Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order of this Court dated 16.11.2016 in W.P.(MD) No.21901 of 2016.

Prayer in WP(MD)No.21901/2016: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 2nd respondent to consider the petitioner's representation dated 21.10.2016, and pass order seeking to give adequate police protection to the petitioner for peaceful enjoyment of his property in Survey No.17/14A2, Patta No.2321 to an extent of 6.93 Ares situated at Enmanangkondan Village, Ramanathapuram Vellipattinam Sub- Division, Ramanathapuram District within a time frame that may be fixed by this Court.

For Appellant

: Mr.M.Subash Babu

For R2 and R3

: Mr.M.Karuppasamy

Government Advocate

JUDGMENT

[Judgment of the Court was delivered by
S.VIMALA, J]

This writ appeal has been filed by the appellant/third respondent against the order of the writ Court in W.P.(MD) No.21901/2016. The first respondent herein is the sister of the appellant herein.



2.The case of the appellant is that the property belonging to his father was orally partitioned among brothers and sisters way back in the year 1987. Later on, the first respondent claims that the father has executed a Will in her favour. It is stated that even before 30 years, the appellant and his brother had constructed a house and they are living in the disputed property. The validity of the Will is in dispute and it has to be decided by the Civil Court. Only after establishing the rights of the property, ie., after proving the Will, in the manner known to law, the first respondent can claim any right over the property. It is stated that the first respondent by using the police force is pressurizing the appellant to vacate from the disputed property and that made him to file a writ petition. In the said writ petition, there is a direction to the petitioner to give a representation to the 2nd respondent and the second respondent, in turn, was directed to dispose of the said representation within a period of six weeks from the date of receipt of a copy of the order.

3.Since the first respondent has been pressurizing the appellant herein to vacate the property by using the police force, a contempt petition in Cont.Petition(MD) No.309 of 2017 has been filed and subsequently, the same has also been closed.

4. It is fairly conceded by the learned Government Advocate that police will not pressurize the appellant to vacate the property and the remedy lies only before the Civil Court.

5. Strictly speaking the order passed in W.P.(MD)No.21901 of 2016 dated 16.11.2016 cannot be said to be against law. But the first respondent has misinterpreted the order passed in W.P.(MD) No.21901 of 2016 and it is alleged that the police is likely to demand the appellant to vacate the property. But the first respondent herein has appeared before the concerned police and has given a statement that she will workout her remedy before the Civil Court. Therefore, it is made clear that the remedy open to the first respondent is only before the Civil Court and not before the police authorities.

6.Recording the said submission made by the learned Government Advocate appearing for second and third respondents, the writ appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar



To

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

2.The Inspector of Police,
Uchipuli Police Station,
Uchipuli,
Ramanathapuram District.

+One cc to The Special Government Pleader, SR.No.42952

+One cc to Mr.M.Subash Babu, Advocate, SR.No.42825

rmi/RR

RL/5C/3P/JC/SAR1/5/2/2018

ORDER MADE IN
W.A.[MD].No.94 of 2018
against WP(MD)No.21901/16
and
C.M.P.(MD) No.463 of 2018

19.01.2018