



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.22139 of 2018

M.Pandian

... Petitioner

Vs.

1.The Superintendent of Police,
Thanjavur District.

2.The Inspector of Police,
Kumbakonam East Police Station,
Kumbakonam, Thanjavur District.

3.The Special Tahsildar, (Land Revenue),
Corporation Office,
Kumbakonam Taluk,
Thanjavur District.

4.Mathivanan

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, directing the 2nd respondent to provide adequate police protection to the petitioner for the demarcation of the property in town Survey No.1338, 1339, 1351 and 1352 Ward 2, Block 15 Kumbakonam, Thanjavur District by the 3rd respondent as per the final decree dated 17.07.2018, passed in I.A.No.151 of 2013, in O.S.No.182 of 2010, on the file of the Additional Subordinate Judge, Kumbakonam.

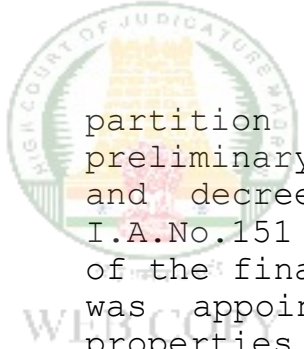
For Petitioner : Mr.R.Maheswaran

For Respondents : Mr.B.Bhagawathi
Government Advocate

ORDER

This Writ Petition has been filed seeking for police protection.

2. The learned counsel for the petitioner would submit that the property in T.S.Nos.1338, 1339, 1351 and 1352 and various other properties are ancestral properties, belonging to the family. The petitioner filed a suit in O.S.No.182 of 2010, before the learned Additional Sub-Court, Kumbakonam, seeking for the relief of



partition and to allot 1/8th share in the suit property. A preliminary decree came to be passed in the said suit by judgment and decree dated 05.07.2010. Thereafter, the petitioner filed I.A.No.151 of 2013, before the Court below for the relief of passing of the final decree. In the said petition, an Advocate Commissioner was appointed and the property was also demarcated and the properties were also allotted to the concerned co-sharers.

3. The learned counsel for the petitioner would further submit that the petitioner along with his three sisters were allotted 1/8th share each in the properties and three sisters have already relinquished their rights, in favour of the petitioner by executing a release deed dated 05.05.2014. Subsequently, when the petitioner made an attempt to demarcate the property with the help of the Tahsildar, in order to lay the boundaries, the same was resisted by the fourth respondent. The learned counsel would submit that the fourth respondent was also a defendant in the suit, he was the 6th respondent in the final decree proceedings and therefore, he is also bound by the decree of the civil Court.

4. The learned Government Advocate (Criminal side), on instructions, would submit that in view of the decree passed by the civil Court, the petitioner has been given right as a co-sharer of the property. If this Court directs the police to give police protection, the respondent police is ready and willing to give police protection to the Tahsildhar to enable the petitioner of demarcate the property.

5. In the facts and circumstances of the case, this Court deems it fit to give a direction to the second respondent to give police protection to the Tahsildar for the purpose of demarcating the property in town Survey Nos.1338, 1339, 1351 and 1352 Ward 2, Block 15 Kumbakonam, Thanjavur District, in order to fix the boundary stones. The right of the petitioner has already been decided by a competent civil Court. That apart the three of the co-sharers who are the sisters of the petitioner have already executed a release deed in favour of the petitioner. The fourth respondent who is also bound by the decree cannot resist the petitioner from enjoying the property by properly demarcating the same with the help of the Tahsildar. The Tahsildar will rely upon the decree passed by the civil Court and will fix the boundaries only in accordance with the final decree passed by the competent civil Court. This cannot be resisted by the fourth respondent.

6. The petitioner is directed to give a fresh representation to the second respondent indicating the date, on which, the survey is going to be conducted by the 3rd respondent, in order to demarcate the property and to fix the boundary stones. On the day, when the 3rd respondent performs his function, the second respondent shall give adequate police protection, in order to ensure that the fourth respondent does not interfere with the same and cause unnecessary law and order problem.



7. The Writ Petition is disposed of with the above directions.
No costs.

WEB COPY

/True Copy/

Sd/-

Assistant Registrar (CS-III)

Sub Assistant Registrar (CS-III)

To

1. The Additional Subordinate Judge, Kumbakonam.

2. The Superintendent of Police,
Thanjavur District.

3. The Inspector of Police,
Kumbakonam East Police Station,
Kumbakonam, Thanjavur District.

4. The Special Tahsildar, (Land Revenue),
Corporation Office,
Kumbakonam Taluk,
Thanjavur District.

+1CC to Mr. R. Maheswaran, Advocate, SR.No. 93468

+1CC to the Special Government Pleader SR.No. 93375

W.P. (MD) No. 22139 of 2018
30.10.2018

SJI

ES/SKN/RSK/SAR 3/01.11.2018/3P/7C