WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2018

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.(MD)No.22765 of 2018

S.Agustin Peter ... Petitioner

Vs.

1.The Superintendent of Police,
Office of the Superintendent of Police,
Madurai.

2.The Inspector of Police,
Vadipatti Police Station,
Vadipatti,
Madurai.

3.P.Solaiyappan @ Rev.P.Stephen Raj

4.Thamarai Selvi ... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the first respondent to instruct the second respondent to provide an adequate police protection to the petitioner's Church and the members and believers of the Church and other consequential reliefs based on the complaint given to the second respondent dated 17.10.2018.

For Petitioner: Mr.J.Selvin Rajesh
For R1 & R2 : Mr.R.Anandaraj
Addl. Public Prosecutor
For R3 & R4 : Mr.Prabhu Rajadurai
for Mr.S.Alagusundar

ORDER

This writ petition has been filed for issuance of Writ of Mandamus directing the first respondent to instruct the second respondent to provide adequate police protection to the petitioner's Church and the members and believers of the Church and other consequential reliefs based on the complaint given to the second respondent dated 17.10.2018.

2. Heard the learned Counsel appearing for the petitioner, the learned Additional Public Prosecutor appearing for the respondents 1 and 2 and the learned counsel appearing for the respondents 3 and 4.

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

3. The learned counsel for the petitioner would submit that the petitioner is serving as a Pastor in Assemblies of God Church in Vadipatti, Madurai District. The said Church comes under the control and supervision of Tamil District Council of South India Assemblies of God. According to the learned counsel for the petitioner, the Church land was purchased from the fourth respondent,who is the wife of the third respondent through her power agent and the church was constructed with the help of church members and believers. During the year 2014-2015 the third respondent was working as a Pastor in that Church and thereafter, due to disciplinary action he was transferred to another church belonging to the Organization at Puliyangudi. Subsequently after enquiry, the third respondent had been relieved from the organization by the Committee Members. Due to vengeance the respondents 3 and 4 started to create hurdles and disturbance during the prayers and services in the Church premises.

4. The learned counsel for the petitioner would further submit that due to continuous disturbance, the Secretary of the District Council of South India Assemblies of God filed a suit in O.S.No.76 of 2018 before the learned District Munsif Court, Vadipatti. On 07.07.2018, the respondents 3 and 4 have entered into the suit property with henchmen and they broke the wall in the western side of the property and entered into the Church building by breaking the roof and they have stolen Rs.1,50,000/- worth public administration system. Immediately the petitioner gave a complaint along with the videographs to the respondents 1 and 2. The respondents 1 and 2 have not taken any steps to restrain the illegal activities of the respondents 3 and 4. In the meanwhile, the learned District Munsif has passed an ad-interim ex-parte order against the respondents 3 and 4 and their agents on 28.06.2018 upto 16.07.2018 in I.A.No.294 of 2018 in O.S.No.76 of 2018 and the ex-parte injunction has been made absolute pending trial by order dated 19.07.2018 after hearing both sides and till date the order has not been vacated.

5. Though interim order of injunction was passed by the Civil Court, the respondents 3 and 4 had continued creating hurdles and disturbing the prayers and fellowship meeting, which are regularly conducted in the Church. Again the petitioner has lodged a complaint before the respondents 1 and 2. But since they failed to take action against the respondents 3 and 4. Hence, the petitioner is before this Court seeking a direction to the first respondent to instruct the second respondent to provide adequate police protection to the Church based on the complaint given to the second respondent on 17.10.2018.

6. The learned counsel appearing for the respondents 3 and 4 would submit that by virtue of injunction order, the third respondent cannot be prevented from rendering the service as a Pastor in the Church and that the order of injunction granted by the

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

Civil Court is only in respect of the property and that the third respondent cannot be prevented from functioning as a Pastor.

7. At this juncture, the learned counsel for the petitioner would submit that due to certain misbehavior, the third respondent was suspended from the organization and that he was duly served with the communication dated 23.02.2016 and thereafter, at his request, he has been transferred to Puliyangudi and he did not continue as a Pastor in the Vadipatti Church and moreover the organization has also relieved him. While so, the third respondent has also started another Church with another group and now that he is continuing to create problem in the premises of the petitioner.

8. The learned Additional Public Prosecutor would submit that the Church land belongs to the petitioner's organization and that they have also obtained an order of injunction dated 19.07.2018 restraining the respondents 3 and 4 from interfering with the possession of the property pending disposal of the suit and that the respondents 3 and 4 has been relieved by the petitioner organization and that the 4th respondent is the wife of the 3rd respondent.

9. The learned counsel appearing for the respondents 3 and 4 submits that all the factual averments of the petitioner are denied. However, he would submit that the petitioner had been granted the order of injunction by the learned District Munsif,Vadipatti.

10. On hearing the submissions and perusing the materials, this Court is of the opinion that in view of the order of injunction from the Civil Court, the respondents 3 and 4 shall not interfere with the peaceful possession and enjoyment of the Church of the petitioner. Though the learned counsel for the respondents 3 and 4 has vehemently argued before this Court that the third respondent is continuing as a Pastor in the petitioner Church, the records would show that he has been transferred to Puliayangudi and he is no more the Pastor at Vadipatti. Taking into consideration the above stated facts, this Court is inclined to issue a direction to the respondents 1 and 2 to provide adequate police protection to the petitioners Church, the members, believers based on the complaint given to the second respondent on 17.10.2018.

11.In the result, this Writ Petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(RECORDS)

/True Copy/

https://hcservices.ecourts.gov.in/hcservices/

Sub Assistant Registrar(CS-II)

WEB COPY

To
1.The Superintendent of Police,
Office of the Superintendent of Police,
Madurai.

2.The Inspector of Police,
Vadipatti Police Station,
Vadipatti, Madurai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+3CCs TO MR.J.SELVIN RAJESH ADVOCATE IN SR.NO. 101172.
• 1 CC TO Mr.S.ALAGUSUNDAR , ADVOCATE IN SR No. 101251.
CM
DS RSK SAR2 21 12 2018 4P 8C

W.P.(MD)No.22765 of 2018

https://hcservices.ecourts.gov.in/hcservices/