



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Order Reserved on : 29.01.2018

Order Pronounced on : 23.02.2018

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.P(MD) No.22439 of 2017

Krishnan

... Petitioner

-Vs-

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

2.The Inspector of Police,
Thuvarankurichi Police Station,
Marungapuri Taluk,
Trichy District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue writ of mandamus directing the respondent to give adequate police protection to the petitioner for fencing his cultivating land situated in S.F.No.157/3 and 158/3 in Vellaiyakonpatti Village in Marungapuri Taluk, Trichy District on the basis of the petitioner's representation dated 20.11.2017 and 28.11.2017.

For Petitioner
For Respondents

: Mr.T.Vadivelan
: Mr.V.Anand
Govt. Advocate

O R D E R

This writ petition has been filed to direct the respondent to provide police protection to the petitioner for fencing his cultivating land situated in S.F.No.157/3 and 158/3 in Vellaiyakonpatti Village in Marungapuri Taluk, Trichy District.

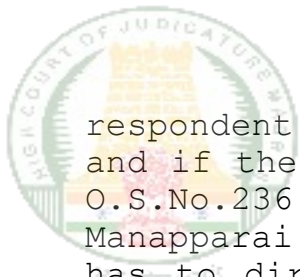
2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.



3. The learned counsel for the petitioner submitted that the petitioner is the cultivating tenant of the agricultural land measuring about 1.84.0 hectares situated in S.F.No.157/3 and 158/3 in Vellaiyakonpatti Village in Marungapuri Taluk, Trichy District. He further submitted that the said land belongs to the idol of Sri. Raja Rajendra Soleeswaramudayar Veeramakali Amman temple and the trustee of the said temple namely T.R.K.Kumara Vijaya Poosaiya Naicker has leased out the said land to the petitioner. He further submitted that the President of Vahuthalwarpatti Panchayat tried to conduct weekly market on the road side of the aforesaid property and hence, the petitioner's landlord has filed a suit in O.S.No.148 of 2004 on the file of the District Munsif, Manapparai for the relief of declaration and injunction. Likewise, the petitioner herein and another tenant also filed a suit in O.S.No.236 of 2004 on the file of the District Munsif Court, Manapparai against the President of the aforesaid Panchayat. Both the suits were tried together and decreed by the common judgment dated 07.03.2015. The panchayat has not filed any appeal against the decree passed in O.S.No.236 of 2004. However, the said panchayat has filed an appeal in A.S.No.91 of 2015 on the file of the Principal Sub-Judge, Trichy against the decree passed in O.S.No.148 of 2004. He further submitted that the cattle and animals have been continuously damaging the crops and hence, he tried to put up fence for the said land and at that time, some identified unknown persons introducing themselves as villagers of Vellaiyakonpatti, threatened and prevented him from fencing his land and hence, the petitioner has submitted a representation before the second respondent on 20.11.2017 to give police protection to him for fencing his land, but so far no action has been taken on the said representation and hence, the petitioner has submitted another representation on 28.11.2017 and on that representation also, no action has been taken.

4. The learned Government Advocate has submitted that since the petitioner has obtained a decree in a Civil Court, he has to file an execution petition before the same court and instead of doing so, he has approached the second respondent for providing police protection for fencing his land. He further submitted that the petitioner may be directed to file a petition to execute the decree, which was obtained by him.

5. Admittedly, the petitioner has obtained a decree in O.S.No.236 of 2004 on the file of the District Munsif Court, Manapparai against one Palaniyandi Chettiyar and 8 others. According to the petitioner, against the said decree, the defendants in that suit have not filed any appeal and therefore, if any of the defendants or their men or their legal heirs disobeyed the said decree, the petitioner has to file execution petition under Order 21 Rule 32 of the Civil Procedure Code. But, in the affidavit, the petitioner has stated that some identified, unknown persons introducing themselves as villagers of Vellaiyakonpatti, threatened and prevented him from fencing his land. Therefore, the second



respondent is directed to enquire the petitioner's representation and if the enquiry reveals that only the defendants or their men in O.S.No.236 of 2004 on the file of the District Munsif Court, Manapparai have prevented the petitioner from fencing his land, he has to direct the petitioner to file an execution petition before the concerned court. If the enquiry reveals that some other persons prevented the petitioner from fencing the land, then, it is open to him to provide police protection.

6.With the aforesaid observations, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

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

2.The Inspector of Police,
Thuvarankurichi Police Station,
Marungapuri Taluk,
Trichy District.

+One cc to The Special Government Pleader, SR.No.51310

+One cc to Mr.T.Vadivelan, Advocate, SR.No.51391

vs

RL/5C/3P/KK/SAR2/13/2/2018

Order made in
W.P(MD) Nos.22439 of 2017

23.02.2018