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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 14.03.2019
CORAM
THE HONOURABLE MR JUSTICE N.SESHASAYEE
W.P.(MD)No.183 of 2019

C.Pavankumar ... Petitioner

Vs.

1.The District Collector,
Collectorate Campus,
Madurai 625 020
Madurai District.

2.The Corporation of Madurai,
Aringar Anna Maligai,
Out Post,
Thallakulam,
Madurai 625 002.
Through its Commissioner.

3.The Commissioner of Police(City),
Alagarkoil Road,
Near Thamarai Thotti,
Madurai 625 014.

4.The Inspector of Police,
D1, South Gate Police Station,
South Gate,
Madurai – 625 001.

5.Matharam ..Respondents
(R5 is impleaded vide court order dated 7.3.2019 in W.M.P.(MD) No.758 of 2019)

PRAYER: This writ petition has been filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents to give the petitioner adequate police protection as per the petitioner's petition dated 17.12.2018 to the respondents 1 and 3 to complete construction of petitioner's mother's building at Old Ward No.39/now Ward No:66, Chettikurunathan Kovil Street, Alavukara Street in Town Survey No.1327 measuring 1165 sq. fts as per the city plan and approved plan of Corporation of Madurai.

For Petitioner :Mr.T.S.R.Venkatramana
For R1,R3 & R4 :Mrs.S.Bharathi
Government Advocate(Crl.side)
For R2 : Mr.J.Gunasekaran Muthiah
For R5 : Mr.V.P.Rajan

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O R D E R

The present petition is filed seeking protection to the petitioner for putting up a structure in his property comprised in T.S.No.1327 in Ward No.66 of Chettigurunathan Kovil Street, Alavukara Street measuring 1165 sq.ft. The obstruction, according to him, comes from the fifth respondent.

2.Heard the learned counsel appearing for the petitioner, learned Government Advocate(Crl.side) appearing for the respondents 1, 3 and 4, the learned counsel appearing for the second respondent and the learned counsel appearing for the fifth respondent.

3. According to the learned counsel for the petitioner, the property belongs to him and when he attempts to put up a structure, he faces obstruction from the fifth respondent. Now, the fifth respondent has rushed to the civil court with O.S.No.572 of 2018 for bare injunction and the case is now pending before the Additional District Munsif Curt, Madurai. In that suit, the Commissioner has been appointed, whose report indicates that the petitioner has not encroached into any part of the fifth respondent's property.

3.1 Subsequently, another 'copy – paste' plaint was laid by the fifth respondent again for bare injunction and the same is pending in O.S.No.26 of 2019. The learned counsel appearing for the petitioner would further submit that filing successive suits on the same set of pleading in the same court would amount to abuse of judicial process and the same were filed with the intention to harass the petitioner's right over his property.

4. The learned counsel appearing for the fifth respondent insisted that there is a dispute regarding title to the property and the matter is now sub-judice before the Additional District Munsif Court. So far as filing successive suits are concerned, the learned counsel for the fifth respondent submitted that there are two items in the suit property and the two suits are directed against each of the two items of properties.

5. It is now apparent that no profitable exercise could be done by directing the police to give protection to the petitioner one way or other as the dispute necessarily needs to be resolved between the petitioner and the fifth respondent by the civil court. It is represented that the pleadings in O.S.No. 572 of 2018 and O.S.26 of 2019 are complete and the suits are ripe for trial.

6. Since both the parties are before this Court, by consent of both parties, this Court directs the learned Additional District Munsif, Madurai to frame issues before ensuing summer vacation and commence the trial in the opening week after vacation and thereafter dispose of both the suits within a period of three months from today.

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7. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar

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To,

1.The Additional District Munsif,
Madurai

2.The District Collector,Collectorate Campus,
Madurai 625 020Madurai District.

3.The Commissioner, Corporation of Madurai,Aringar Anna Maligai,
Out Post,Thallakulam,Madurai 625 002.

4.The Commissioner of Police(City),Alagarkoil Road,
Near Thamarai Thotti,Madurai 625 014.

5.The Inspector of Police,D1, South Gate Police Station,
South Gate,Madurai - 625 001.

+1cc to Mr.T.S.R.Venkatramana, Advocate, SR.No.54125
+1cc to Mr.J.Gunasekaran Muthiah, Advocate, SR.No.54444

W.P.(MD)No.183 of 2019
14.03.2019

SP/25.03.2019/ 3P/8C

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