



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.(MD).No.8238 of 2017

WEB COPY

Naina Mohamed Rowther

... Petitioner

vs.

1) The District Collector,
Pudukkottai District.

2) The Superintendent of Police,
Pudukkottai District.

3) The Inspector of Police,
Aranthangi Police Station,
Pudukkottai District.

4) The Sub-Inspector of Police,
Nagudi Police Station,
Pudukkottai District.

5) Abdulhasan @ Ablasa

6) Jasitha Beevi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents 2 to 4 to provide necessary police protection to fence the petitioner's land in S.F.No.309/14, situated in Melmangalam village, Aranthangi Taluk, Pudukkottai District by considering the petitioner's representation dated 20.02.2017.

For Petitioner : Mr.K.Baalasundharam

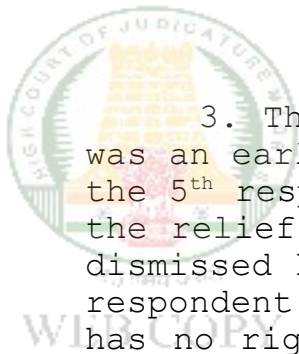
For RR 1 to 4 : Mr.S.Chandrasekar,
Additional Public Prosecutor

For RR 5 & 6 : Mr.S.M.Sanjay

O R D E R

This writ petition has been filed seeking for police protection to the petitioner to enable him to fence the property.

2. The learned Additional Public Prosecutor on instructions submitted that the complaint given by the petitioner seeking for police protection was closed on the ground that there is already a civil suit pending between the parties in O.S.No.81 of 2016 before the District Munsif Court, Aranthangi.



3. The learned counsel for the petitioner submitted that there was an earlier suit that was filed in the year 1990 by the father of the 5th respondent against the petitioner and five others seeking for the relief of declaration and permanent injunction and the same was dismissed by judgment decree dated 10.03.1995. Therefore, the fifth respondent cannot be permitted to reopen the very same issue and he has no right or title over the property. Therefore, the respondent police went wrong in rejecting the application on the ground that there is a civil suit pending.

4. Taking into consideration the facts and circumstances of the case, this Court is not inclined to exercise its jurisdiction under Article 226 of the Constitution of India, in view of the pending suit. The petitioner is given liberty to file an appropriate application under Section 151 of C.P.C. seeking for police protection before the civil court where O.S.No.81 of 2016 is pending. The concerned Court shall deal with the said application on its own merits and in accordance with law and shall dispose of the application as expeditiously as possible. The Civil Court will have an opportunity to look into all the records and will be in a better position to see if police protection must be granted to the petitioner to fence his property.

5. With the above directions, the writ petition is disposed of. No costs.

Sd/-

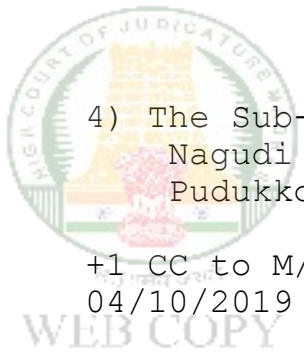
Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

sts
To

- 1) The District Collector,
Pudukkottai District.
- 2) The Superintendent of Police,
Pudukkottai District.
- 3) The Inspector of Police,
Aranthangi Police Station,
Pudukkottai District.



4) The Sub-Inspector of Police,
Nagudi Police Station,
Pudukkottai District.

+1 CC to M/s.K.BAALASUNDHARAM, Advocate (SR-91510[F] dated
04/10/2019)

Order made in
W.P. (MD) .No.8238 of 2017

Dated:
04.10.2019

KK/SAR/22.10.2019/3P-6C/