

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2020

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.11407 of 2020

Mr.K.Rathinasamy

...Petitioner

Vs.

1. The District Superintendent of Police,
Office of the Superintendent of Police,
Tiruppur District.

2. The Inspector of Police,
Avinashi Police Station,
Avinashi, Tiruppur District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus a direction to the 2nd respondent to give police protection to fence around the property situated at S.No.294/2, to an extent of 1 Acre and 30 $\frac{3}{4}$ cents situated at Kuppandampalayam Village, Avinashi Taluk, Tiruppur District.

For Petitioner : Mrs.Manisha Karthika
for Mrs.D.Sheyamala

For Respondents : Mr.S.Karthikeyan
Additional Public Prosecutor

O R D E R

This Writ Petition has been filed to issue a direction to the 2nd respondent to give police protection to fence around the petitioner's property situated at S.No.294/2, to an extent of 1 Acre and 30 $\frac{3}{4}$ cents situated at Kuppandampalayam Village, Avinashi Taluk, Tiruppur District.

2. The learned counsel for the petitioner would submit that the petitioner had purchased the said land and became absolute owner of the said property. By registering the sale deed document No.2138 of 2016, while being so, one Shanmugam and Govindaraj, owner of the adjacent land tried to encroach

the petitioner's property. In this regard, the petitioner also filed a suit for permanent injunction in O.S.No.448 of 2016 and it was decreed in favour of the petitioner by judgment and decree dated 01.11.2019. Even then, the counter party is disturbing the possession and enjoyment of the property and also obstructing the petitioner from putting up the fence in and around the said property owned by him. Therefore, he filed petition for police protection from the 2nd respondent.

3. The learned Additional Public Prosecutor, submitted that infact, the petitioner has already lodged a complaint and on the said complaint, the 2nd respondent registered an F.I.R., in Crime No.463 of 2016 as against the counter party and also completed the investigation and filed the final report and now the trial is pending before the trial court as against the counter party. While pending trial, again the counter parties obstructing the petitioner's possession and enjoyment of the property. In this regard, the petitioner lodged a complaint and the same is pending for enquiry.

4. The learned Additional Public Prosecutor also submitted that the petitioner obtained a decree for injunction as against the counter party in O.S.No.448 of 2016.

5. Heard Mrs.Manisha Karthika, learned counsel appearing for the petitioner and Mr.S.Karthikeyan, learned Additional Public Prosecutor, appearing for the respondents.

6. The petitioner is the absolute owner of the property comprised in S.No.294/2 situate at Kuppandampalayam Village, Avinashi Taluk, Tirupur District measuring to an extent of 1 Acre 30 $\frac{3}{4}$ cents. While being so, counter parties namely Shanmugham, Perumal, Rengasamy and Govindaraj are being the adjacent owners of the petitioner's property disturbing the petitioner's possession and enjoyment of the said property. Therefore, the petitioner is constrained to file a suit in O.S.No.448 of 2019 and the same was decreed in favour of the petitioner by order dated 01.11.2019. Whether any appeal filed by the counter parties the petitioner is not able to provide any details, the counter party did not file any appeal so far. In fact, already the petitioner lodged a complaint as against the counter party and the same was registered in crime No.463 of 2016 by the 2nd respondent. After completion of investigation, the 2nd respondent is also filed the final report and the same was taken cognizance in C.C.No.238 of 2016 on the file of the learned Judicial Magistrate, Avinashi and it is pending for trial.

7. Considering the above facts and circumstances, the 2nd respondent is directed to conduct enquiry on the complaint lodged by the petitioner, after issuing notice to the counter parties and also after considering the civil court decree passed in favour of the petitioner and pass orders on merits in accordance with law within a period of two weeks from the

date of receipt of a copy of this order.

8. With the above direction, this Writ Petition is disposed of.

s/d
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The District Superintendent of Police,
Office of the Superintendent of Police,
Tiruppur District.
2. The Inspector of Police,
Avinashi Police Station,
Avinashi, Tiruppur District.
3. The Public Prosecutor,
High Court, Madras.

W.P.No.11407 of 2020

AJS (CO)
RN(09/11/2020)
RN(23/11/2020)