

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2020

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

W.P.No.14181 of 2020

R.Ezhilventhan
S/o, Late, Renganathan,
Manalmedu Street,
Chinnakosappallam Village,
Tittagudi Taluk,
Cuddalore - 606 105.Petitioner

-Vs-

1. The Superintendent of Police,
Superintendent Office,
Manjakkuppam,
Cuddalore - 607 001.

2. The Inspector of Police,
Pennadam Police Station,
Cuddalore District - 606 105.

3. P.Tamizhmani
S/o, Palanimuthu,
Manalmedu,
Chinnakosappallam Village,
Tittagudi Taluk,
Cuddalore - 606 105.

4. T.Malarkodi,
W/o, Tamizhmani,
Manalmedu,
Chinnakosappallam Village,
Tittagudi Taluk,
Cuddalore - 606 105.

5. T.Ravichandran
S/o, Thangarasu,
Manalmedu,
Chinnakosappallam Village,
Tittagudi Taluk,
Cuddalore - 606 105.

6. R.Jayanthi
W/o, Ravichandran,
Manalmedu,
Chinnakosappallam Village,
Tittagudi Taluk,
Cuddalore - 606 105.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ, order or direction including in the nature of Writ of Mandamus directing the 1st and 2nd respondent to provide aid/protection to the petitioner in order to remove the bamboo fencing across the common path way put up by the 3rd and 4th respondent by violating permanent injunction order dated on 24.06.2019 in O.S.No.114 of 2017 on the file of the Additional District Munsiff Court, Tittagudi and to take appropriate action against the 3rd, 4th 5th and 6th respondents, who behaved violently, illegally, disobeyed the court and their casteist command, by considering the written representation dated on 01.09.2020 and 17.08.2020.

For Petitioner : Mr.R.Muthukrishnan

For R1 and R2 : Ms.M.Prabhavathi
Additional Public Prosecutor

For R3 to R6 : Mr.E.Karthik

O R D E R

The Writ Petition has been filed by the petitioner in the nature of Writ of Mandamus for a direction to the 1st and 2nd respondent to provide aid/protection to the petitioner in order to remove the bamboo fencing across the common path way put up by the 3rd and 4th respondent for violating permanent injunction order dated on 24.06.2019 in O.S.No.114 of 2017 on the file of the Additional District Munsiff Court, Tittagudi and to take appropriate action against the 3rd, 4th 5th and 6th respondents, who behaved violently, illegally, disobeyed the court and their casteist command, by considering the written representation dated 01.09.2020 and 17.08.2020.

2. By way of this Writ Petition, the petitioner seeks for police protection to remove the encroachment put up by the respondents 3 to 6 by violating the judgment and decree passed by the Additional District Munsiff, Tittagudi dated 24.06.2019 in O.S.No.114 of 2017 and thereby to take appropriate action against them.

3. On a perusal of the affidavit and petition filed by the petitioner in the W.P and the typeset filed by him, even according to the petitioner, the property in issue is only a common way. So, it is evident that the petitioner has no absolute right over the property in dispute. Even as per the decree obtained by him in O.S.No.114 of 2017, the petitioner has been granted only the right of access through the property in issue to reach his other property. Thus, it is seen that no absolute right had been declared/affirmed in favour of the petitioner qua the property in issue by the Civil Court. As pointed out supra, even as per the case of the petitioner, the property in issue is only a common way.

4. The petitioner seeks police protection against the respondents 3 to 6 only for violating the order and decree of permanent injunction granted by the Civil Court. When no absolute right had been declared/affirmed in favour of the petitioner qua the property in issue by the Civil Court and when the petitioner has got remedy to enforce the order of permanent injunction obtained by him in the Civil Court against the respondents 3 to 6 for violating of the same, it is for the petitioner to workout his remedy before the Civil Court by enforcing the decree obtained by him in the Civil Court in accordance with law.

5. In the light of the abovesaid reasons, at this stage of the matter, I am of the considered opinion that it would not be appropriate and proper to invoke the writ jurisdiction provided under the Constitution of India for granting the police protection in favour of the petitioner as prayed for by him. The petitioner is only to approach the Civil Court to enforce the decree of permanent injunction obtained by him and workout his remedy as per law.

6. In conclusion, the Writ Petition is dismissed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mfa
To

1. The Superintendent of Police,
Superintendent Office,
Manjakkuppam,
Cuddalore - 607 001.

2. The Inspector of Police,
Pennadam Police Station,
Cuddalore District - 606 105.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Muthukrishnan, Advocate Sr.36709
+1cc to Mr.G.Karthikeyan, Advocate Sr.36853

W.P.No.14181 of 2020

rgn[co]
srg 08/01/2021



WEB COPY