



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**

W.P. (MD)No.11186 of 2020

Sivaprakasam

... Petitioner

Vs.

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

2.The Inspector of Police,
Manamelkudi Police Station,
Manamelkudi,
Pudukottai District.

3.The Tahsildar,
Manamelkudi Taluk,
Manamelkudi,
Pudukottai District.

4.The Firka Surveyor,
Manamelkudi Taluk,
Manamelkudi,
Pudukottai District.

5.Sivanathan

... Respondents

PRAYER : This Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, directing the second respondent to provide adequate police protection to both petitioner's life and limb as well as survey authorities while carrying survey and fixing the four boundaries of the Survey No.57/3 of Dhandalai Revenue Village so that free and fair survey will be carried out, by considering the petitioner's representation dated 26.08.2020 sent to second respondent police.

For Petitioner : Mr.K.K.Samy

For R-1 to R-4 : Mr.S.Chandrasekar
Additional Public Prosecutor



O R D E R

The petitioner filed this writ petition praying for issuance of a writ of mandamus to direct the second respondent to provide adequate police protection to both petitioner's life and limb as well as survey authorities while carrying survey and fixing the four boundaries of the Survey No.57/3 of Dhandalai Revenue Village by considering the petitioner's representation dated 26.08.2020.

2.The case of the petitioner is that the Survey No.57/3 of Dhandalai Village, Manamelkudi Taluk, Pudukottai District was in the name of Arunachalam, who is the father of the petitioner till the issuance of UDR patta as per Patta Pass Book Act, 1983. While updating the records in UDR scheme, the Revenue Department entered wrongly one Mr.Kasinathapillai, who is the father of the fifth respondent herein as patta holder for the same survey number. In this regard, the petitioner submitted an application before the District Revenue Officer, Pudukottai, for correcting the UDR patta. By considering the same, the Revenue Officer, Pudukottai, vide his letter No.Na.Ka.No.149/14/D3, dated 08.03.2016, cancelling the patta issued wrongly in the name of Mr.Kasinathapillai and directed the Tahsildar, Manalmelkudi, to correct the patta holder name as Sivaprakasam, S/o.Arunachalam. In this regard, though several litigations were instituted by the petitioner, finally the petitioner submitted a representation to survey the land and fix the boundaries in Survey No.57/3 of Dhandalai Revenue Village on 23.07.2020. In the meanwhile, when at the time the petitioner and the authorities attempted to fix the fencing with stone, the fifth respondent herein along with his own brother namely, Mr.Lakshmanan prevented the petitioner and stopped the work. In this regard, the petitioner submitted a representation to the second respondent on 26.08.2020, for which, no order has been passed by the second respondent and therefore, directing the second respondent to give adequate protection for fixing four boundaries, is necessary.

3.The learned counsel appearing for the petitioner would reiterate the averments made in the affidavit filed by the petitioner in respect of the petition.

4.Per contra, the learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that in earlier, on 06.06.2020, the petitioner herein presented the same submission for the relief to give protection to his life and limb. On receipt of the same, the second respondent herein initiated an enquiry in C.S.R.No.155 of 2020 on 10.06.2020 and during the time of enquiry, the petitioner herein has not appeared before the respondent police and therefore, without any alternative, the said enquiry has been closed by the second respondent. He would further submit that the representation dated 26.08.2020 is nothing, but



replica of representation dated 06.06.2020 and therefore, ordering the writ petition in favour of the petitioner, is not necessary.

5.Upon considering the arguments made by either side, as of now, it is not in dispute that the petitioner has sent the representation to the second respondent repeatedly only for the purpose of measuring his property in Survey No.57/3. In otherwise on considering the fact that the petitioner failed to appear before the second respondent for enquiry is a grave mistake committed by him. Therefore, this Court cannot come into the conclusion that the allegation levelled by the petitioner against the second respondent, is not a substantiate one. However, in the interest of justice in order to resolve the dispute having by the petitioner with the fifth respondent, it is appropriate to issue direction to the second respondent to reopen the enquiry in connection with C.S.R.No.155 of 2020, which was already closed. In this regard, the petitioner herein is directed to appear before the second respondent on 22.09.2020 and after enquiry, the second respondent is directed to give police protection, if necessary, particularly, the enquiry is ended in favour of the petitioner. Further, the petitioner is directed to produce the proceedings of the District Revenue Officer dated 08.03.2016, while at the time of appearing before the second respondent and the second respondent is directed to complete the enquiry within a period of one month thereafter.

6.With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To:

- 1.The Superintendent of Police,
Pudukottai District,
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NR (17.09.2020) 4P 5C