



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P.(MD) No.18666 of 2020

Petitioner

Gurusamy

Vs

1.The Superintendent of Police,
Tenkasi District.

2.The Deputy Superintendent of Police,
Puliyangudi,
Tenkasi District.

3.The Inspector of Police,
Sivagiri Police Station,
Tenkasi District.

4.S.Srinivasan

5.S.Suresh

6.S.Laxmanan

7.Malaiyammal

8.Kaliyammal

9.Ramar

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 3rd respondent to give appropriate protection at the time of four foundry fencing by iron paling in the property comprised in S.F.Nos.1010/15A1 and 1010/15A2 of Rayagiri Village - I, Sivagiri Taluk, Tenkasi District in the light of the order dated 08.07.2020 made in I.A.No.300 of 2018 in O.S.No.12 of 2011, on the file of the learned Additional District cum Judicial Magistrate, Sivagiri.

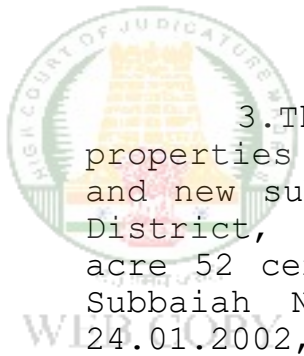
For Petitioner : Mr.M.Laxmi Mahendra

For R1 to R3 : Mr.R.Srinivasan,
Government Advocate

O R D E R

This Writ Petition has been filed to direct the 3rd respondent to give appropriate protection at the time of four foundry fencing by iron paling in the property comprised in S.F.Nos.1010/15A1 and 1010/15A2 of Rayagiri Village - I, Sivagiri Taluk, Tenkasi District in the light of the order dated 08.07.2020 made in I.A.No.300 of 2018 in O.S.No.12 of 2011, on the file of the learned Additional District cum Judicial Magistrate, Sivagiri.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

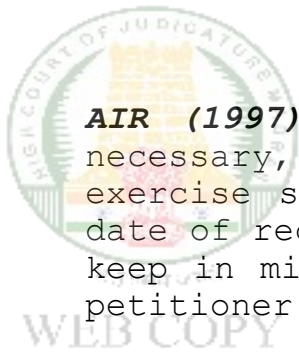


3.The learned counsel for the petitioner would state that the properties comprised in Patta Nos.4215 and 4326 in S.F.No.1010/15A and new sub division as S.F.Nos.1010/15A1 and 1010/15A2 of Tenkasi District, Sivagiri Taluk, Rayagiri Village -I, total extent of 1 acre 52 cents Punjai land was purchased by the petitioner from one Subbaiah Nadar under registered sale deed Doc.No.48/2002 dated 24.01.2002, for a valid consideration and the said property was mortgaged by executing Mortgage Deed to his own sister namely Malaiyammal vide Doc.No.478/2011 dated 28.03.2011 and she is doing agricultural activities in the land. While this being so, the respondent Nos.4 to 9 are disturbing the peaceful possession of petitioner's property by creating fake documents and by way of filing suit for permanent injunction against the petitioner in O.S.No.12 of 2011, on the file of the learned District Munsif cum Judicial Magistrate, Sivagiri. Subsequently, the respondents were also filed I.A.No.40 of 2011 in the above suit for temporary injunction. The grievance of the petitioner is that eventhough I.A.No.40 of 2011 and O.S.No.12 of 2011 were dismissed by the learned Judge, the respondents 7 to 9 were trespassed into the land of the petitioner and ruined the cotton crops on 11.07.2020. Therefore, the petitioner's sister, who is doing agricultural work in the petitioner's land has given complaint before the 3rd respondent police, based on which, a case in Crime No.415 of 2020 dated 21.09.2020 also registered against the respondent Nos.7 to 9 for the offences punishable under Sections 427, 294(b) and 506(i) IPC. Thereafter, the petitioner had equipped to fence his four foundry land by iron paling, for which the petitioner has given representation to the respondent police on 10.10.2020, seeking police protection. Since no action has been taken by them, the petitioner has given another representation to the respondent Nos.1 to 3 on 02.11.2020 and the same also not considered by the respondent police so far. Hence, this petition.

4.The learned Government Advocate appearing for the official respondents would submit that the representation of the petitioner will be considered.

5. Heard the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the official respondents.

6.Considering the facts and circumstances of the case, it is crystal clear that the suit filed against the petitioner in O.S.No.12 of 2011 was ended in favour of the petitioner. Now the petitioner has come forward, seeking police protection. Therefore, without going into the merits of the case, the respondents 1 to 3 are directed to consider and pass orders on the petitioner's representation dated 02.11.2020 after giving notice to the respondent Nos. 4 to 9 by following the principles laid down by the Hon'ble Apex Court in ***D.K.Basu Vs. State of West Bengal reported in***



AIR (1997) SC 610 and if it is found that police protection is necessary, the same may be given to the petitioner. The said exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order. The respondent police shall keep in mind the order in O.S.No.12 of 2011, while considering the petitioner's representation.

7. With the above directions, this writ petition is disposed of. No cost

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Vrn

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,
Tenkasi District.
2. The Deputy Superintendent of Police,
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Tenkasi District.
3. The Inspector of Police,
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Tenkasi District.

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SV2 (CO)
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