



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2020

CORAM:

THE HONOURABLE **DR. JUSTICE G. JAYACHANDRAN**

W.P. (MD).No.20463 of 2016

WEB COPY

Veeramuthu

... Petitioner

Vs.

1.The Superintendent of Police,
Pudukottai District.

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

... Respondents

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, by directing the respondents to provide protection to put up fence around in the petitioner's land in Survey No.125/4, extent 0.08.5 ares at Nayanankollai Hamlet, Kanakkankudi Revenue Village, Karambakudi Taluk, Pudukottai District as per measurement made on 01.09.2016.

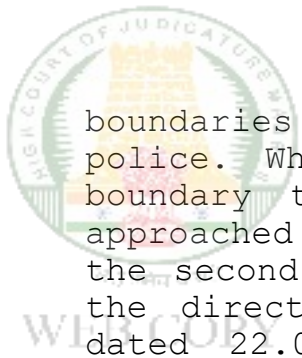
For Petitioner : Mr.N.Balakrishnan

For Respondents : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

This writ petition has been filed seeking mandamus to direct the respondents to provide protection to put up fence around the petitioner's land in Survey No.125/4, extent 0.08.5 ares at Nayanankollai Hamlet, Kanakkankudi Revenue Village, Karambakudi Taluk, Pudukottai District as per measurement made on 01.09.2016.

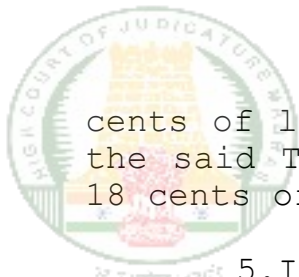
2.The brief facts of the case is that the petitioner herein claim to be the owner of the above described land in Survey No.125/4, extent 0.08.5 ares. To put fence and protect the same, he requested the survey department to measure the land. Since the survey department did not come forward to measure the land, he approached this Court by way of writ petition in W.P. (MD).No.12956 of 2016 to measure his land in Survey No.124/4, and determine the boundaries. This Court by order dated 22.07.2016, allowed the same and directed the Taluk Deputy Inspector, Survey Department, Karambakudi Taluk, Pudukottai District to measure the property. Accordingly, the land was measured by the surveyor on 01.09.2016 and



boundaries were fixed with the protection of the second respondent police. When the petitioner want to fence his land as per the boundary that was again objected by the rival persons. So he approached the second respondent police for police protection, but the second respondent has declined to give protection stating that the direction given by this Court in W.P.(MD).No.12956 of 2016, dated 22.07.2016, is only to provide police protection, while measuring the land and not for fencing the land. Therefore, again the petitioner is forced to approach this Court by way of filing the present writ petition.

3.In the counter filed by the second respondent, it is stated that one Tamilselvan has lodged a complaint against the petitioner alleging that he has purchased 18 cents of land from one Ramalinga Konar S/O.Renga Konar and the petitioner herein is the other son of the Renga Konar. While so, the petitioner herein has obtained Patta to the extent of 21 cents which includes 3 cents of land belongs to Ramalinga Konar. A complaint dated 11.11.2015 is given in this regard and investigation is pending before the Malaiyur Police station. On the very same set of fact the said Tamilselvan has given a complaint to the second respondent on 08.02.2016. On receipt of the complaint, the second respondent has given CSR.No.28 of 2016 and the same was taken on file for enquiry. The petitioner is not cooperating with the investigation and he has not explained to the notice sent for enquiry. In such circumstances, it has been brought to the notice of the second respondent that regarding the division of the property of Renga Konar between his two sons viz., Ramalinga Konar and Veramuthu Konar (the petitioner herein), there is a civil dispute pending. Therefore, the police is unable to give protection to the petitioner to fence his land in the light of the civil dispute.

4.It is stated in the counter that the said Tamilselvan has send a representation to the Sub-Collector of Pudukkottai to cancel the Patta given in favour of the petitioner herein. Hence, the matter is subjudiced before the competent civil Court. Providing police protection to fence land in dispute, before the competent civil Court decide, does not arise. To the said counter, the petitioner has filed rejoinder. Regarding the pendency of civil suit and representation in A.P.No.4030 of 2016 before the Sub-Collector, Pudukkottai regarding the Patta. In the rejoinder of the petitioner states that his father Renga Konar had 76 cents of land in Survey No.125 A. Out of which, the petitioner and his brother Ramalinga Konar sold 48 cents on the western side, which is situated in Survey No.125/1 to one Ramakonar under a registered sale deed dated 04.09.1997. After selling 48 cents to the Ramakonar, they retained only 28 cents on the eastern side in which the petitioner and his brother are entitled to 14 cents each. Through oral partition between the petitioner and his brother, the eastern half was allotted to the petitioner and the western half of 14 cents was allotted to Ramalinga Konar. Although Ramalinga Konar have only 14



cents of land in the said survey number by manipulating the record, the said Tamilselvan has created a document as if he has purchased 18 cents of land from Ramalinga Konar.

5. In the said circumstances of facts, the question to answer whether the petitioner is entitled for police protection to fence his land or not. As per the Patta, the Surveyor has measured the land and demarcate the boundaries on 01.09.2016. While so, unless and until there is civil dispute regarding Patta or title over the property regarding the owner of the property, the petitioner is entitled to fence his land. In the counter, the second respondent stated that there is civil dispute pending and also application before the Sub Collector is pending for clarification of Patta given in favour of the petitioner. If there is any such petition really pending, difficulty, the second respondent can refrain from giving police protection otherwise the petitioner is entitled for police protection to fence his land.

6. Hence, this writ petition is disposed of with the direction to the second respondent, if any, representation is given by the petitioner for police protection they shall provide police protection unless there is any civil dispute pending before the competent civil Court or any objection pending before the revenue authorities regarding Patta. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

vsg

To:

1. The Superintendent of Police,
Pudukottai District.

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

+1 CC to M/s. N. BALAKRISHNAN, Advocate (SR-12299[F] dated 18/03/2020)

W.P. (MD).No.20463 of 2016
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AP (02/06/2020) 3P 4C

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