

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.1125 of 2021

Saraswathi

... Petitioner

Vs.

1. The Superintendent of Police,
Namakkal.

2. The Inspector of Police,
Pallipalayam, Kumarapalayam Taluk,
Namakkal District.

3. K.S.Muthusamy

4. Malliga

... Respondents

Prayer: This Writ Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus, directing the respondents 1 and 2 to give police protection based on the representation dated 22.12.2020 and permit the petitioner to cut/harvest the sugarcane cultivated in S.No.133/2A on extend of 1.28 Hectare situated at Kokarayanpettai Village, Pallipalayam Taluk, Namakkal District.

For Petitioner : Mr.R.R.Manikandan

For Respondents : Mr.M.Mohamed Riyaz - R1 & R2
Additional Public Prosecutor

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the respondents Police to give police protection to the petitioner based on the complaint given by the petitioner on 02.11.2020.

2. Heard R.R.Manikandan, learned counsel for the petitioner, Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing on behalf of respondents 1 and 2 and there is no appearance on behalf respondents 3 & 4.

3. It is seen from records that the petitioner has filed a suit in O.S.No.121 of 2016 before the Principal District Munsif Court, Tiruchengode and a judgment and decree was passed in favour of the petitioner on 13.08.2019 declaring the right of the petitioner over the pathway and granting a permanent injunction restraining the defendants from

interfering with the usage of the pathway. An appeal has been filed before the Sub Court, Tiruchengode and the same is pending in A.S.No.27/2019. The grievance of the petitioner is that the private respondents are interfering with the use of the pathway and hence, the petitioner had approached the Police seeking for protection, which was not considered. The appropriate remedy for the petitioner would be to file an application under Section 151 of C.P.C. before the Appellate Court and seek for police protection and the Appellate Court, on considering the facts of the case can always pass an order in such an application. The petitioner cannot pallelly maintain a Writ Petition and seek for police protection. Except giving this liberty, no further orders can be passed in this Writ Petition.

4. This Writ Petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rli

To

1. The Superintendent of Police,
Namakkal.

2. The Inspector of Police,
Pallipalayam, Kumarapalayam Taluk,
Namakkal District.

3. The Public Prosecutor
High Court of Madras
Chennai - 600 104.

Copy To

1.The Subordinate Judge,
Tiruchengode.

2.The District Munsif,
Thiruchengode.

+1cc to Mr.Manikandan, Advocate, S.R.No. 2940

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