

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.2713 of 2021

A.Christopher Gnanaoli

... Petitioner

Vs.

1. The District Superintendent of Police,
Tiruvallur District.

2. The Inspector of Police (L&O)
T-6, Avadi Police Station,
Avadi, Chennai-54.

3. D.Kamalanathan
(impleaded as third respondent vide order dated 24.02.2021
in WMP.No.4915 of 2021) ... Respondents

Prayer: The Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the respondents to provide necessary police protection enabling the petitioner to carry out the construction activities in the property of the petitioner situated at No.5, Gandhi Street, Nandavana Mettur, Avadi, Chennai-71 Poonamallee Taluk, Tiruvalur district comprised in Survey No.246 admeasuring an extent of 13.5 cents including house and vacant site.

For Petitioner : Mr.D.Babu Varadharajan

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

Mr.A.Velmurugan R3

O R D E R

This Writ petition has been filed seeking for police protection to enable the petitioner to carry out the construction activities in his property.

2. The case of the petitioner is that the subject property originally belonged to the mother of the petitioner. There was a dispute between one Pappathi Ammal and the father of the petitioner with regard to the subject property. The father of the petitioner filed a suit in O.S.No.1888 of 1993 before the District Munsif Court, Poonamallee against the said Pappathi Ammal for the relief of declaration, consequential injunction and for a mandatory injunction. The

suit was dismissed by judgment and decree dated 18.07.2006.

3. Aggrieved by the dismissal of the suit, the father of the petitioner filed an appeal in AS.No.9 of 2008 before the Sub Court, Poonamallee against the said Pappathi Ammal. During the pendency of the appeal, both the father of the petitioner as well as the said Pappathi Ammal died and all the legal representatives came on record. The petitioner prosecuted the case as the legal heir of his father and the impleaded third respondent prosecuted the case in the place of Late Pappathi Ammal. Ultimately, the appeal came to be partly allowed by declaring the title insofar as the schedule-B of the suit property is concerned. According to the petitioner, this decree has become final. The grievance of the petitioner is that the impleaded third respondent in spite of losing the case before the competent Civil Court, is causing threat and preventing the petitioner from putting up construction in the subject property. When a complaint was given before the respondent Police, no action was taken against the third respondent and left with no other option, the present petition has been filed before this Court.

4. Heard Mr.D.Rabu Varadharajan, learned counsel for the petitioner, Mr.C.Raghavan, learned Government Advocate (Crl. Side) appearing on behalf of the respondents 1 and 2 and Mr.A.Velmurugan, learned counsel for the third respondent.

5. Taking into consideration the facts and circumstances of the case and also of the fact that a competent Civil Court has already declared the right and title over the subject property and the same has become final, the second respondent is directed to call the parties for an enquiry and assess as to whether the judgment and decree dated 06.01.2010 in AS.No.9 of 2008 has become final. If it has become final, the impleaded third respondent shall be instructed not to cause any threat or interference with the possession and enjoyment of the property of the petitioner. If the third respondent has filed any appeal as against the judgment and decree passed in AS.No.9 of 2008, the parties shall be directed to agitate their rights before the Court in accordance with law. The petitioner is directed to make a fresh representation to the second respondent along with a copy of this order.

6. This Criminal Original Petition is disposed of with the above directions.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

To

1. The District Superintendent of Police,
Tiruvallur District.

2. The Inspector of Police (L&O)
T-6, Avadi Police Station,
Avadi, Chennai-54.

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

+1cc to M/s.A.Velmurugan, Advocate SR.11742

W.P.No.2713 of 2021

PL(CO)
CB(24/03/2021)



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