

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.3874 of 2021

Palanivel

... Petitioner

Vs.

1. The Inspector of Police,
Elachipalayam Police Station,
Namakkal District.

2. N.Raja

... Respondents

Prayer: The Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the first respondent to give police protection to the petitioner and his farm servants for ingress and egress over the 'plan marked pathway' in S.No.52/1 for the purpose of removal of the harvested crops from his S.No.52/2 of Kallupalayam Village, Tiruchengode Taluk, Namakkal District by considering his representation dated 06.02.2021.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

सत्यमेव जयते
O R D E R

This Writ Petition has been filed seeking for police protection to enable the petitioner to use the pathway in S.No.52/1 for ingress and egress from his agricultural land situated at S.No.52/2.

2. When this matter came up for hearing on 22.02.2021, this Court passed the following order:

'The learned Additional Public Prosecutor takes notice on behalf of first respondent. Notice to the second respondent returnable by 26.02.2021. Private notice is also permitted.

2. It is seen from records that a dispute between the parties culminated in proceedings initiated under Section 145 of Cr.P.C. The Sub-Divisional Magistrate, Tiruchengode, by proceedings dated 15.12.2020, after hearing both the parties, has come to a conclusion that the pathway in S.No.52/1 must be permitted to be used by both the parties without any hindrance and the parties have been directed to approach the competent civil Court to work out their exclusive rights over the pathway in S.No.52/1. The Sub-Divisional Executive Magistrate have also directed the respondent police to ensure that this interim arrangement is maintained till final orders are passed by the competent Civil Court and there is no law and problem created by the parties. The grievance of the petitioner is that inspite of this order, the second respondent is preventing the petitioner from utilizing the pathway in S.No.52/1 to take away his agricultural produce from his land situated at S.No.52/2.

3. The learned Additional Public Prosecutor seeks time to take instructions in this regard. Post this case on 26.02.2021 under the caption "'for orders'".

3. The learned Additional Public Prosecutor submitted that pursuant to the above order, the parties were called for an enquiry and the second respondent was also informed that the arrangement made by the Sub-Divisional Executive Magistrate must be continued till either of the party approaches a competent civil Court and establish their exclusive right over the property. The learned Additional Public Prosecutor further submitted that the second respondent is not satisfied with the extent that has been allotted to him in the pathway and therefore, he was asked to approach the competent Civil Court and not to cause any threat or hindrance to the petitioner.

4. In view of the specific stand taken by the respondent police, there shall be a direction to the first respondent to ensure that both the parties use the pathway in S.No.52/1 without causing any law and order problem as per the arrangement made by the Sub-Divisional Executive Magistrate, till they establish their exclusive right before the competent Civil Court. If the second respondent indulges in any threat or causes any law and order problem, action shall be taken against him in accordance with law.

5. If required, police protection shall also be provided to the petitioner to ensure that he is able to have free ingress and egress to his agricultural land situated in S.No.52/1 through the designated pathway.

6. This Writ Petition is disposed of accordingly.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Elachipalayam Police Station,
Namakkal District.

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

+1 cc to M/s.N.Manokaran, Advocate Sr.No. 12917

CP(CO)
RMP(05/03/2021)

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सत्यमेव जयते

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