

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.02.2021

C O R A M

The Hon'ble Mr. Justice N.ANAND VENKATESH

Writ Petition No.4157 of 2021

Chandra, W/o.D.Selvam

... Petitioner

Vs.

1.The Deputy Commissioner of Police,
St. Thomas Mount,
Chennai-600 013.

2.The Inspector of Police
S-15, Selaiyur Station,
Chennai.

3.Rajammal, W/o.Ramasamy Naicker ...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Mandamus directing respondents 1 and 2 herein to consider representation dated 05.10.2020 and provide adequate police protection to surveying and put up fencing the land in survey No.289/A situated at Plot No.20, Srinivasa Nagar, Selaiyur Village, Tambaram Taluk, Kanchipuram District.

For Petitioner : Mr.D.Magesh

For Respondents : Mr.M.Mohammed Riyaz

Additional Public Prosecutor
for R1 & R2

सत्यमेव जयते
O R D E R

This writ petition has been filed for issuance of a Writ of Mandamus, directing the respondent police to consider the representation made by the petitioner on 05.10.2020 wherein the petitioner is seeking for police protection in order to conduct the survey in the subject property and for fencing the property.

2. The case of the petitioner is that the third respondent was claiming right and title over the subject property and hence, filed a suit in O.S.No.301 of 2005 before the District Munsif Court, Tambaram, against the petitioner and three others seeking for the relief of permanent injunction. This suit came to be dismissed by judgment and decree dated 30.03.2005. The

same was confirmed in Appeal in A.S.No.29 of 2010 and further confirmed by this Court in S.A.No.372 of 2018 by judgment and decree dated 25.07.2018.

3. The grievance of the petitioner is that in spite of losing before all the Courts, the third respondent continues to interfere with the possession and enjoyment of the property and is not even allowing the petitioner to survey the property and fence the same. A complaint was given in this regard to the second respondent and the same has been assigned CSR No.723 of 2020. According to the petitioner, no enquiry has been conducted and the petitioner is not able to survey the subject property and fence the property. Left with no other option, the present writ petition has been filed before this court.

4. Heard Mr.D.Magesh, learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned counsel for the respondents 1 and 2.

5. Taking into consideration the facts and circumstances of the case and also of the fact that the claim made by the third respondent has been rejected up to this Court in the Second Appeal, the third respondent will not have any right to interfere with the possession and enjoyment of the petitioner in the subject property. The third respondent cannot prevent the petitioner from surveying the property and fencing the property. The second respondent is directed to call the parties for an enquiry and inform the third respondent not to interfere with the possession and enjoyment of the property. If in spite of such instructions, the third respondent creates any threat or law and order problem himself or through some others, the second respondent shall take immediate action strictly in accordance with law. The second respondent shall provide police protection at the time of survey and fencing of the property. If any charges are payable by the petitioner in this regard, the same shall also be paid to the second respondent.

6.The petitioner is directed to make a fresh representation to the second respondent along with all the relevant documents and also a copy of this order.

7.This writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Commissioner of Police,
St. Thomas Mount,
Chennai-600 013.

2. The Inspector of Police
S-15, Selaiyur Station,
Chennai.

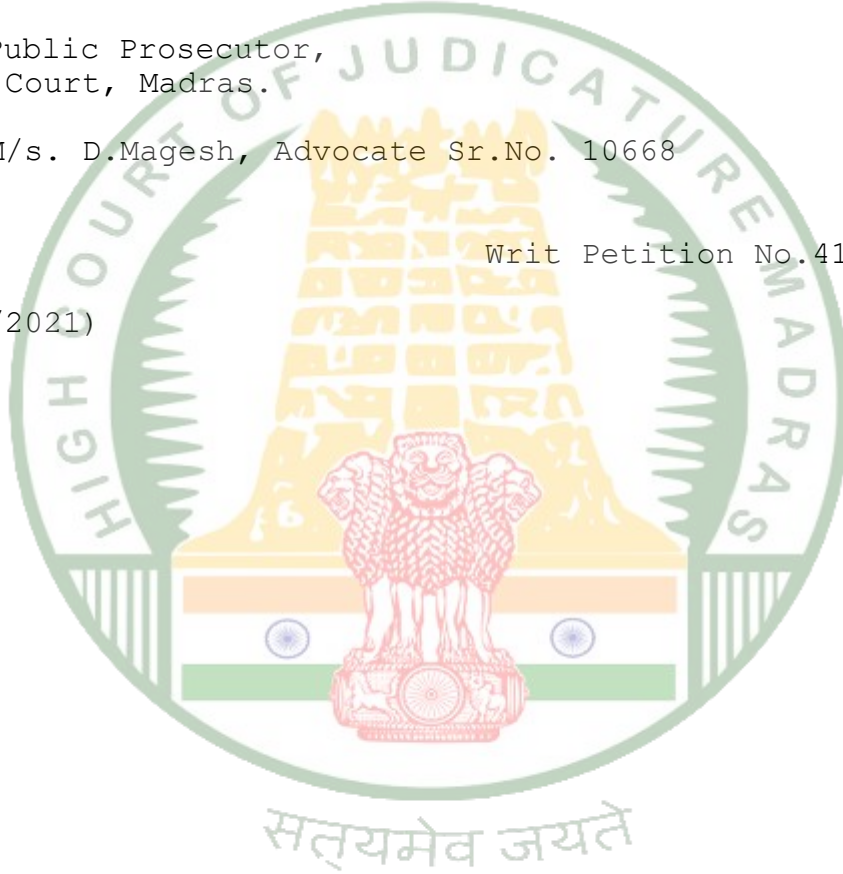
Copy to:

The Public Prosecutor,
High Court, Madras.

+1 cc to M/s. D.Magesh, Advocate Sr.No. 10668

Writ Petition No.4157 of 2021

AJS (CO)
RMP (26/02/2021)



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