

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.9041 of 2021

Settu,
S/o.Gothanda Konar

... Petitioner

-vs-

1.The Superintendent of Police,
Tiruvannamalai,
Tiruvannamalai District.

2.The Deputy Superintendent of Police,
Chengam Taluk,
Tiruvannamalai,
Tiruvannamalai District.

3.The Inspector of Police,
Chengam, Tiruvannamalai,
Tiruvannamalai District.

4.Govindasamy,
S/o.Gopalchetty

5.Anandan, S/o.Govindasamy

6.Palani, S/o.Gopal Chetty

7.Karthikeyan, S/o.Palani

8. Venkatesan, S/o.Krishnagounder ... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Mandamus directing the respondents 1 to 3 to give police protection to the petitioner's life and limb from the accused persons and also to give protection to petitioner's properties.

For Petitioner : Mr.R.Rajarajan

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This writ petition has been filed seeking for a direction to the respondents 1 to 3 to give police protection to the petitioner's life and limb from the accused persons and also to give protection to petitioner's properties.

2.It is seen from the records that the petitioner's father inherited the property. After the demise of the petitioner's father, the petitioner and his brother were in possession and enjoyment of the same. While that being so, respondents 4 to 8 have created a forged sale deed dated 21.02.2006 in favour of the 8th respondent, viz., Venkatesan and attempted to interfere with the peaceful possession and enjoyment of the petitioner. Therefore, the petitioner and his brother filed a suit in O.S.No.21 of 2007 on the file of the Principal District Munsif Court, Tiruvannamalai seeking for declaration and injunction. The said suit was dismissed on 06.10.2007. Challenging the dismissal order, the petitioner and his brother preferred an Appeal in A.S.No.82 of 2007 on the file of the Additional Subordinate Judge, Tiruvannamalai. The first Appellate Court allowed the appeal and reversed the judgment and decree of the trial Court and thereby decreeing the suit in favour of the petitioner and his brother by judgment and decree dated 05.11.2009. Thereafter, the respondents 4 to 8 herein filed a Second Appeal in S.A.No.1068 of 2010 by challenging the judgment and decree passed in A.S.No.82 of 2007. Subsequently thereafter, the Second Appeal is dismissed on 09.11.2020. Now the petitioner and his brother were declared and the possession is also protected by way of declaration and permanent injunction. In this situation, the respondents have joined together and attempted to disturb the possession and enjoyment of the property on 07.03.2021, for which, the petitioner made a representation dated 10.03.2021 to the respondents 1 to 3. Since the same was not acted upon, the present writ petition has been filed seeking for appropriate direction.

3.Heard Mr.R.Rajarajan, learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor for the respondents 1 to 3.

4. In the considered view of this Court, the actual dispute in the present case is resolved around the right over the subject property. The police will have no role to play in a case

of this nature. The petitioner has to necessarily workout his remedy before the competent civil court and seek appropriate orders restraining the private respondents from interfering with his possession and enjoyment of the property. Except granting this liberty, no further orders can be passed in this writ petition.

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

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Superintendent of Police,
Tiruvannamalai,
Tiruvannamalai District.
- 2.The Deputy Superintendent of Police,
Chengam Taluk,
Tiruvannamalai,
Tiruvannamalai District.
- 3.The Inspector of Police,
Chengam, Tiruvannamalai,
Tiruvannamalai District.
- 4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Rajarajan, Advocate Sr.22718

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srg 21/06/2021

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