

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

WP No. 12693 of 2020

V.Mukundha

...Petitioner

vs.

1. The Inspector of Police,
E2 Royapettah Police Station,
Chennai 600 014.

2. Janaki Ravichandran

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent police to consider the complaint dated 31.07.2020 given by the petitioner and to give police protection to the petitioner to enforce in the decree order dated 25.09.2014 in S.A.No.906 of 2002 on the file of this Court for putting up the compound wall in the property.

For Petitioner : Mr.A.Thiyagarajan, Senior Counsel
for Mr.S.Ramesh Kumar

For Respondents: Mr.M.Mohamed Riyaz
Additional Public Prosecutor, for R1
Mr.V.Balasubramanian, for R2

O R D E R

This Writ Petition has been filed for issuance of a Writ of Mandamus directing the first respondent to consider the complaint given by the petitioner on 31.07.2020 and provide police protection to the petitioner to enable the petitioner to put up a compound wall in the subject property.

2. Mr.A.Thiyagarajan, learned Senior Counsel appearing on behalf of the petitioner submitted that the subject property originally belonged to one Subbba Rao. He filed a suit in CS No.48 of 2001, before this Court seeking for the relief of partition and a compromise decree was passed on 29.03.2001. The learned Senior Counsel further submitted that the subject property devolved upon one Pururavas and he became the absolute

owner of the property. The learned Senior Counsel submitted that there was a dispute between the said Pururavas and Eswaravan and four others and the matter ultimately reached this Court in Second Appeal No.906 of 2002. The learned Senior Counsel brought to the notice of this Court the judgment and decree passed in the Second Appeal, dated 25.09.2014 and submitted that this Court declared that there is a 12 feet pathway which is a common pathway. The learned Senior Counsel submitted that the petitioner, who was a subsequent purchaser wanted to put up a wall in his property by leaving the 12 feet pathway. This was prevented by the second respondent and the second respondent was creating law and order problem and hence a complaint came to be given before the first respondent seeking for police protection. Since the same was not considered, the present Writ Petition has been filed before this Court.

3. Heard Mr.M.Mohamamed Riyaz, learned Additional Public Prosecutor appearing for the first respondent and Mr.V.Balasubramanian, learned counsel appearing on behalf of the second respondent.

4. This Court has carefully considered the submissions made by the learned counsel on either side and also the material available on record.

5. A careful reading of the judgment passed by this Court in SA No.906 of 2002 reveals the fact that this Court had merely declared that insofar as plaint 'A' portion is concerned, there is a 12 feet pathway which was declared as a common pathway. No other relief was granted by this Court. According to the petitioner, he wants to put up a wall in his property by leaving the 12 feet pathway as declared by this Court and this is prevented by the second respondent. The petitioner is therefore seeking for police protection from the first respondent.

6. In the considered view of this Court, the facts of the present case clearly shows that the Police will have no role to play and the relief as sought for by the petitioner cannot be granted by this Court. If according to the petitioner, the second respondent is preventing the petitioner from putting up a wall in his property, the petitioner has to independently approach the Civil Court and seek for appropriate relief against the second respondent. It will be too difficult for the police to ascertain the 12 feet pathway and thereafter provide for protection to the petitioner and obviously there will be rival claims which cannot be determined by the Police. Therefore, the most appropriate forum to be approached will be the Civil Court and the petitioner can always establish his right, before the Civil Court and the Civil Court will also have the advantage of determining the place at which the wall is

sought to be constructed and also ensure that it is done by leaving the 12 feet pathway.

7. In view of the above, this Court is not inclined to grant the relief as sought for by the petitioner and it is left open to the petitioner to work out his remedy before the concerned Civil Court. The Writ Petition is disposed of accordingly. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

jv

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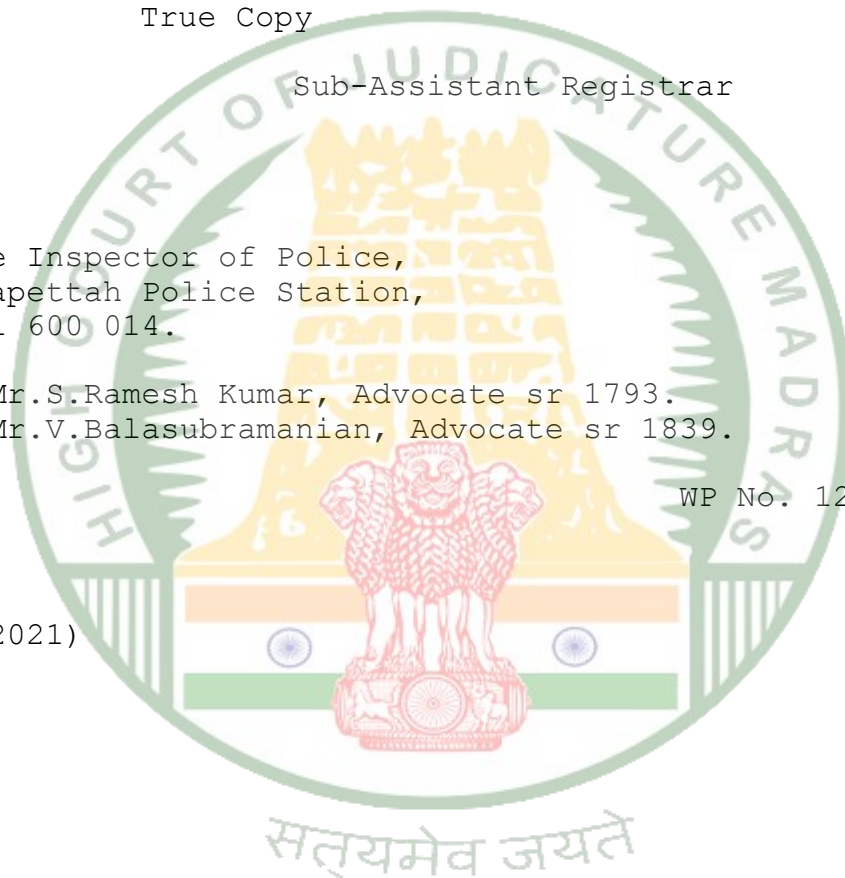
1. The The Inspector of Police,
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Chennai 600 014.

+1 CC to Mr.S.Ramesh Kumar, Advocate sr 1793.

+1 CC to Mr.V.Balasubramanian, Advocate sr 1839.

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SRA(CO)
SP(09/02/2021)



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