



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.18054 of 2021
and
WMP.No.19278 & 19278 of 2021

1. Kamalam.

2. N.Sambathkumar.

... Petitioners

Versus

1. The Superintendent of Police,
Office of Superintendent,
Tiruppur,
Tiruppur District.

2. The Deputy Superintendent of Police,
Dharapuram,
Tiruppur District.

3. The State rep by its,
The Inspector of Police,
Kundadam Police Station,
Kundadam,
Tiruppur District.

4. M.Sarojini.

5. S.Eswaran.

... Respondents

PRAYER: Writ Petition filed under Article 226 Constitution of India, to issue Writ of Mandamus, forbearing the respondent No.2, 3 from interfering the civil dispute between the petitioners with the respondent Nos.4, 5 by considering representation dated 12.08.2021.



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For Petitioner : Mr.K.Myilsamy.

For R1 : Mr.A.Damodharan,
Government Advocate (CrI.side).
for R1 - R3,

Mr.Camyles Gandhi, for R4 & R5.

ORDER

This Writ petition has been filed seeking direction forbearing the respondents 2 and 3 from interfering with the civil dispute between the petitioners and the respondents 4 and 5 and also by considering his representation dated 12.08.2021.

2. The learned counsel appearing for the petitioners submitted that the petitioner had sent a representation to the 3rd respondent police not to give police protection as per the directions of this Court in CrI.O.P.No.13336 of 2021 dated 02.08.2021. He further submitted that the petitioner is in possession of the land in Survey Nos.833/1, 833/2, 833/3 situated at Dharapuram Circle, Manorpalayam Village, Dharapuram Taluk, Tiruppur District. As this property is demanded by one Nataraj, who is the husband of the first petitioner and father of the 2nd petitioner, One Sarojini/4th respondent, filed a suit in O.S.No.277 of 2005 before the District Munsif, Dharapuram and the same was decreed. Against which, the said Nataraj had filed an appeal in A.S.No.40 of 2013 before the Sub-Court, Dharapuram. During the pendency of the appeal, since Nataraj died, the petitioners herein were impleaded as his legal heirs. The Lower Appellate Court, by a judgment and decree dated 02.04.2017, dismissed the appeal and thereby confirming the judgment and decree passed by the trial Court. Thereafter, the petitioners had filed a Second Appeal on 28.02.2019 with a petition in CMP No.10793 of 2019 to condone the delay in representation and the same was dismissed for non prosecution. Thereafter, they had filed a petition in CMP No.33859 of 2021 for restoration and the same is still pending. While being so, the 5th respondent herein, suppressing the pendency of the civil litigation, had filed a CrI.O.P.No.13336 of 2021 for providing police protection to him to construct the wire fencing in his land, in respect of Survey Nos.833/1, 833/2 & 833/3. He further submitted that based on the order passed in CrI.O.P.No.13336 of 2021, the respondent police is harassing the



petitioner to stay in the police station throughout the day, eventhough the civil suit is yet to reach finality.

3. Mr. Camyles Gandhi, learned counsel appearing for the respondents 4 and 5 submitted that the writ petition is to be dismissed in limen. By way of the representation dated 12.08.2021, the petitioner sought the respondent police not to act on the order passed by this Court in Cr1.O.P.No.13336 of 2021, which amounts to contempt of Court. No person can seek restriction of the order passed by this Court. If at all the petitioner aggrieves the same, he has to approach the Court and not to seek such relief. He further submitted that the respondents 4 and 5 had not suppressed any fact and they obtained order from this Court after disclosing all the facts. As on date, no civil Court has given any order in favour of the petitioner herein and strongly opposed.

4. The learned Government Advocate (Cr1.side) appearing for the Respondent 1, 2, & 3 submitted that this Court, by an Order dated 02.08.2021 in Cr1.O.P.No.13336 of 2021, had stated that the petitioners herein as well as the respondents 4 and 5 herein to appear before the respondent police, produce documents and thereafter, the respondent police to give necessary protection if they are entitled to.

5. This Court considered the submissions and perused the materials available on records, carefully.

6. Considering the facts and circumstances, the prayer sought by the petitioner in the representation dated 12.08.2021 is not proper, which would amount to interference in the order passed by this Court in Cr1.O.P.No.13336 of 2021, dated 02.08.2021. Hence, this Court finds that the representation of the petitioner and the relief sought for is not maintainable and such prayer cannot be sought for.

7. Accordingly, this writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

mrp



1. The Superintendent of Police,
Office of Superintendent,
Tiruppur,
Tiruppur District.

2. The Deputy Superintendent of Police,
Dharapuram,
Tiruppur District.

3. The Inspector of Police,
Kundadam Police Station,
Kundadam,
Tiruppur District.

+1CC to Mr.Camyles Gandhi, Advocate, SR.No. 44399

W.P.No.18054 of 2021

KG(CO)
B.VC (12/10/2021)