



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 01.07.2021

DELIVERED ON : 07.07.2021

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE **G. ILANGO VAN**

W.P. (MD) .No.7500 of 2020

W.M.P. (MD) .Nos.6973 & 4054 of 2021

Thangavel

... Petitioner

Vs.

1. The Superintendent of Police,
Office of the Superintendent of Police,
Pudukottai,
Pudukottai District.

2.The Deputy Superintendent of Police,
Alangudi Taluk,
Pudukottai District.

3.The Inspector of Police,
Karambakudi Police Station,
Pudukottai District.

4.The Sub-Inspector of Police,
Karambakudi Police Station,
Pudukottai District.

5.Nagarathinam

6.Periyathambi

7.Rajendran

8.Rajamanickam

9.Swaminathan

10.Agathiswaran

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to forbear the respondents 1 to 10 from interfering into the petitioner's Hollow Block Production Place in S.F.No.150/15 of Malaiyur Village, Karambakkudi Taluk, Pudukottai District.



For Petitioner : Mr.K.Baalasundharam
For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor
for RR1 to 4
Mr.B.Jameel Arasu
for RR5 to 10

ORDER

This petition has been filed to forbear the respondents 1 to 10 from interfering into the petitioner's Hollow Block Production Place in S.F.No.150/15 of Malaiyur Village, Karambakkudi Taluk, Pudukottai District.

2. The case of the petitioner is that S.F.No.150/15 which is situated in Malaiyur Village, Karambakkudi Taluk, Pudukottai District is the ancestral property of the petitioner along with other adjacent properties. The petitioner is enjoying the properties for several years and the above said properties are used for the purpose of tying cattles, storing manures and he was running a small cottage industry and manufactuing Hollow Block Stones.

3. There was a previous enmity between the petitioner's family and the 6th respondent herein namely Periyathambi. The 6th respondent has attempted to disturb the possession of the petitioner in S.F.No.150/15. Therefore, the petitioner along with his Pangalis filed a civil suit for permanent injunction against the respondent Nos.5 to 8 and other official respondents in O.S.No.336 of 2019 before the Sub-ordinate Judge, Pudukottai and the same is pending.

4. In the meantime, a memo was issued by the Tahsildar, Karambakkudi Taluk, Pudukottai District on 16.12.2019 directing him to vacate the premises in S.F.No.150/15 on or before 31.12.2019, stating that the petitioner has encroached the Sarkar Natham Promboke property. The same was challenged in W.P.(MD).No.267 of 2020 by the petitioner. This Court, by order dated 07.01.2020, allowed the above petition by directing him to give a reply to the notice dated 16.12.2019 of the Tahsildar, Karambakkudi within a period of two weeks from the date of receipt of a copy of this order. In pursuant to the same, he has also submitted his explanation. But, there was no action initiated. Thereafter, he filed W.P(MD).No.2748 of 2020 challenging the notice issued under Section 6 of Land Encroachment Act, 1905. Subsequent to that, the Tahsildar, Karambakkudi has withdrawn the notice issued to the petitioner under Section 6 of the Land Encroachment Act, 1905. Therefore, he has also withdrawn the writ petition. Till today, no order has been passed by the Tahsildar, Karambakkudi as per the direction issued by this Court in W.P(MD).No.267 of 2020.



5. A Peace Committee Meeting was convened on 15.02.2020 regarding the Sivarthiri Festival of Mariamman Kovil in the village. In that peace Committee, it was decided that the Hollow Block Manufacturing has to be shifted for 10 days during the festival period. Therefore, it was temporarily shifted and stopped the manufacturing.

6. On 21.05.2020, after the lockdown was lifted by the Government, they have started the production of Hollow Block in the aforesaid property. At that time, the fourth respondent with some constables of Karambakkudi Police Station came there and threatened the petitioner not to proceed with the production. Therefore, a legal notice was issued on 21.05.2020. Thereafter, the second respondent called the petitioner in May 2020 and pressurized him to shift the Hollow Block Manufacturing Unit from the above said property to any other place. In pursuant to the same, the petitioner decided to shift the Unit to his nearest patta land. When he was making arrangements on 17.06.2020 at about 10.00, the respondent Nos.9 and 10 brutally attacked the petitioner with deadly weapons and caused grievous injuries and some other persons were also got injured. Therefore, a complaint was given. On this ground, this petition has been filed seeking a direction to the respondents 1 to 10 not to interfere into the Hollow Block Manufacturing Unit in the above said property.

7. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent Nos.1 to 4, the learned counsel appearing for the respondent Nos.5 to 10. The learned counsel for the petitioner at that time told that he is withdrawing the petition against the private respondents. But their presence is required for considering the dispute.

8. The case of the petitioner is that the property in S.F.No.150/15 even though it has been classified as Sarkar Natham Promboke, he is in possession for several years and also running the Hollow Block Manufacturing Unit in the above said property. The Police officials are pressurizing him to vacate the premises.

9. The private respondents, by filing a counter affidavit, submitted that the disputed property belongs to the village people which has been used for the purpose of Annadhanam and other public purposes, during the temple festival. The petitioner, by encroaching upon the property, gave trouble to the village people. During the Peace Committee Meeting in 2020, the petitioner accepted to remove his Hollow Block Stone Business for temple festival. But, thereafter, he occupied the land. In respect of the occurrence that took place, a case and counter case has been registered in Crime Nos.210 of 2020 and 211 of 2020. Therefore, according to them, it is a clear case of encroachment, for which, the police protection



cannot be granted.

10. The private respondents has also filed the additional typed set of papers showing the proceedings that have been taken on earlier occasions by the petitioner and the proceedings of the Revenue Divisional Officer, during the Peace Committee Meeting. Therefore, it is seen from the records that there is continuous trouble with regard to the possession of the property in S.F.No.150/15. In respect of which, a civil suit has also been filed by the petitioner before the Principal Sub Judge, Pudukottai. The orders have been passed directing the Revenue Officers to initiate action against the petitioner as per the Land Encroachment Act, 1905 for removing the encroachment. But so far, no action has been initiated. But, however, it is clear on record to show that the petitioner is in illegal occupation of the property. So, at this juncture, the request made by the petitioner for direction cannot be considered. If at all the petitioner ought to have taken such plea, in the Writ Court or at least he should have made such plea before the Civil Court, before which a suit has been filed. Therefore, I find that there is no bonafideness on the part of the petitioner in this petition. However, the petitioner is at liberty to work out his remedy as per the law. When the disputed facts are involved, no writ of Mandamus can be issued.

11. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ssb

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Superintendent of Police,
Office of the Superintendent of Police,
Pudukottai,
Pudukottai District.



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Pudukottai District.
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4. The Sub-Inspector of Police,
Karambakudi Police Station,
Pudukottai District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

W.P. (MD) .No.7500 of 2020
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RC(14.07.2021) 5P-6C