



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2021

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

W.P. (MD)No.11219 of 2021

J.Jegathamani

... Petitioner

Vs.

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

2. The Inspector of Police,
Palanichettipatti Police Station,
Palanichettipatti,
Theni District.

3. S.Pasupathi Ramkumar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the 2nd respondent to grant necessary police protection by considering the representation preferred by the petitioner dated 05.05.2021 within the period stipulated by this Court.

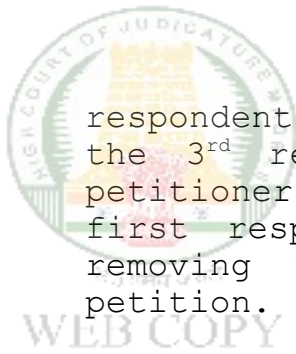
For Petitioner : Mr.J.Sulthan Basha
for M/s.Ajmal Associates

For R1 and R2 : Mr.R.M.Anbunithi,
Additional Public Prosecutor

ORDER

This petition is filed seeking for the issuance of writ of mandamus, to direct the 2nd respondent to grant police protection by considering the representation made by the petitioner dated 05.05.2021.

2. The case of the petitioner is that the property, situated in S.No.1454, Palanichettipatti, Veerapandi Village, Theni Taluk, Theni, is the ancestral property of the petitioner's family. After the demise of her father, the property devolved upon the legal heirs and her mother has also executed a registered gift deed dated 18.10.2011. The petitioner and her sister are in joint possession of property. One Pasupathi Ramkumar is the President of a Trust, called Palaniyappa Pasana Paribalana Sabai, encroached the property and attempted to build a bridge in the said property. Therefore, they filed a suit in O.S.No.84 of 2012 before the District Munsif Court, Theni and that the suit was decreed in favour of the petitioner on 27.01.2021 and a direction was issued to the private



respondents to remove the encroachment within three months. But, the 3rd respondent did not comply with the same. Hence, the petitioner and her sister, on 05.05.2021, made a request to the first respondent to give police protection for the purpose of removing the encroachment and for life threat. Hence, this petition.

3. Today, when the matter is taken up for hearing, the learned counsel for the petitioner submits that there was a decree in favour of the petitioner in O.S.No.84 of 2012 dated 27.01.2021, wherein, a decree of mandatory injunction was also granted, by directing the private respondents to remove the encroachment within three months. Thereafter, the 3rd respondent did not comply with the same. Hence, the petitioner made a request for police protection. The learned counsel appearing for the petitioner also submits that as per the Judgment of the Hon'ble Supreme Court in the case of **P.R.Muralidharan vs. Swami Dharmananda Teerthu Padar (2006 4 SCC 501)**, the petitioner is entitled for police protection for the purpose of executing the decree.

4. I am unable to accept the arguments advanced by the petitioner. Here, the petitioner obtained a decree in her favour. So, the petitioner can file an execution petition before the concerned Court for executing the decree. Without resorting to the legal process, the petitioner cannot seek for police protection for the purpose of executing the decree obtained in O.S.No.84 of 2012. Unless and until the concerned Court orders police protection, this Court, by exercising the jurisdiction under Article 226 of the Constitution of India, cannot execute the same by ordering police protection. Therefore, liberty is granted to the petitioner to approach the concerned Court for executing the decree by filing appropriate petition.

5. With this liberty, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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,
Theni District,
Theni.
2. The Inspector of Police,
Palanichettipatti Police Station,
Palanichettipatti,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-21892[F] dated
09/07/2021)

W.P. (MD)No.11219 of 2021
07.07.2021

RD(20.07.2021) 3P 5C