



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2021

CORAM:

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

W.P.(MD).Nos.12001 & 12002 of 2021

W.M.P.(MD).Nos.9451, 9460 of 2021

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C.Deenathayalapandian ... Petitioner in both petitions
Vs.

1. The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram District. ...R1 in both petitions

2.The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram District. ...R2 in both petitions

3.Sundaramahalingam ...R3 in W.P.(MD).No.12001 of 2021

R3 is impleaded vide Order dated 16.08.2021 in W.M.P.(MD).No.9870 of 2021 in WP.(MD).No.12001 of 2021

PRAYER IN W.P.(MD).No.12001 of 2021 : Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondents herein to give police protection to the petitioner and his family members.

PRAYER IN W.P.(MD).No.12002 of 2021 : Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondents herein to give police protection to construct the compound wall at Survey Nos.78/1B 1B, 78/1B1C situated at Kannirajapuram Village, Kadaladi Taluk, Ramanathapuram District and perform business.

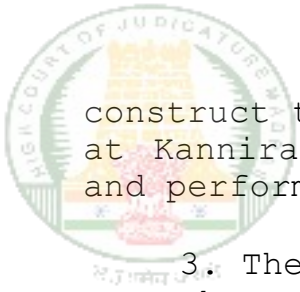
For Petitioner : Mr.Haja Mohiden Gisthi
In both petitions
For R1 & R2 : Mr.R.M.Anbunithi
In both petitions Additional Public Prosecutor
for R1 & R2

For R3 : Mr.C.D.Johnson
for Mr.S.Muthumaharaja

C O M M O N O R D E R

The writ petition in W.P.(MD).No.12001 of 2021 has been filed to direct the respondents herein to give police protection to the petitioner and his family members.

2. The writ petition in W.P.(MD).No.12002 of 2021 has been filed to direct the respondents herein to give police protection to



construct the compound wall at Survey Nos.78/1B 1B, 78/1B1C situated at Kannirajapuram Village, Kadaladi Taluk, Ramanathapuram District and perform business

3. The brief facts in both the matters are as follows:

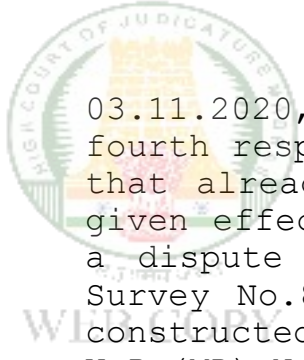
The petitioner is a non-practising advocate and now doing business in the name and style of Kaviyan Constructions Private Limited and K4 Hotel & Apartment. Apart from this, he is running educational institutions. He purchased a land situated in Survey Nos.78/1B 1B, 78/1B 1C at Kannirajapuram Village, Kadaladi Taluk from one Aathi through a registered document. Evensince from the date of purchase of the property, he is in possession and enjoyment of the property. On 07.07.2021, he tried to put up a compound wall around the property that was prevented by the third respondent and others. They trespassed into the property with deadly weapons and caused criminal intimidation and damaged. Hence, a complaint was given which was originally registered in C.S.R.No.23 of 2021 and later, in Crime No.287 of 2021 on 08.07.2021.

4. Again he tried to put up construction that was also prevented. He faced the very same problem in Survey No.87/1 which is an adjacent property for which he filed a writ petition in W.P.(MD). No.8360 of 2020 for registering the sale deed and the police protection was also granted in the above said matter. From 09.07.2021, the petitioner has been receiving anonymous calls from various unknown persons and he has been criminally intimidated. Hence, the present petitions have been filed.

Heard both Sides:-

5. It is not denied and disputed by the third respondent herein that the property under dispute in Survey No.78/1B1B, 78/1B1C situated at Kannirajapuram Village, Kadaladi Taluk, Ramanathapuram District belongs to the petitioner by way of purchase. He also purchased the adjacent properties for the purpose of putting up a resort. He started construction work in that place along with this property which is situated in Survey No.87/1 at the same village. At that time, trouble arose at the hands of one Sudalaiyandi, on previous occasion, when he tried to put up a compound wall in Survey No.87/1. At that time, he moved a writ petition in W.P.(MD).No.8360 of 2020 for registering the sale deed dated 21.07.2020, that was allowed on 05.08.2020. Further, one Poovasalingam filed a writ petition in W.P.(MD).No.9162 of 2020 seeking grant of patta, in which, the above said Sudalaiyandi was arrayed as fourth respondent. In that writ petition, the above said Sudalaiyandi, who is the vendor to the petitioner herein sought police protection. This Court, by order dated 09.10.2020, granted police protection for constructing the compound wall without pulling down the palm trees.

6. Thereafter, a writ appeal was also filed by the above said Poovasalingam in W.A.(MD).No.983 of 2020. By the order dated



03.11.2020, the writ appeal came to be dismissed. However, the fourth respondent namely Sudalaiyandi has submitted before the Court that already compound wall was constructed and the order has been given effect. This development and the sequence of events show that a dispute was already raised by one Poovasalingam in respect of Survey No.87/1. As per the order of this Court, compound wall was constructed. Finally on 20.01.2021, the above said writ petition in W.P.(MD).No.9162 of 2020 was heard and final order was passed. In the order, it has been observed that since interim police protection was ordered in favour of the above said Sudalaiyandi, the same shall be continued and no variation is required till the disposal of the civil suit to be filed on the subject matter.

7. But, later, a problem arose again, when this petitioner tried to put up a compound wall in the present property. From the records, it is seen that as per the allegations made in the petition, only an attempt was made on 07.07.2021 to put up a compound wall in this property. At that time, a trouble arose, and the third respondent and others trespassed into the property and demolished the compound wall. Based upon which, a case in Crime No.287 of 2021 was registered on 08.07.2021. Hence, it is seen that when the petitioner tried to extend the compound wall that was put up in Survey No.87/1, the third respondent and others made disturbance and caused damages, claiming that they have a pathway right over the property.

8. Thereafter, several events and developments took place. As on date, two criminal cases have been registered against the third respondent and others. The entire CD file has been called for. In Crime No.287 of 2021, the date of occurrence is stated as 08.07.2021 which was registered under Sections 147, 148, 447, 294(b), 427, 506 (2) and later it was altered to 307 IPC against the three persons namely Sundramahalingam, Uthiralingam, Manokaralingam. Similarly, a case in Crime No.320 of 2021 was registered on 22.07.2021 for the offences punishable under Sections 147, 294(b), 447, 506(ii), 109 IPC against the very same persons. They have also moved anticipatory bail before the Principal District Judge, Ramanathapuram in Crime No.287 of 2021 that was also granted. Due to the life threat made by the third respondent and others in the course of TV interview, the offence was altered to 307 IPC. Seeking cancellation of anticipatory bail, this petitioner moved CrI.O.P.(MD).No.10629 of 2021 and now it is pending. A report has been called for from the Police as to the life threat to the petitioner and it is not available on record. However, from the records, it is seen that based on the interim order passed by this Court in CRL.O.P.(MD).No.10629 of 2021, the third respondent and others were called and they have made an undertaking to the effect that they will not interfere into the construction work and disturb the petitioner, work out their remedy before the Civil Court. Even after that, a trouble arose between the petitioner and the third respondent. The third respondent and others

<https://www.hcj.org.in> services to create law and order problem by staging a protest.



Apprehending breach of peace, the Inspector of Police has written a letter to the Revenue Divisional Officer regarding the initiation of proceedings to maintain the law and order in the area.

9. Now it has been informed to this Court that 107 proceedings have been initiated by the Revenue Divisional Officer. Similarly, with regard to the filing of the civil suit by the third respondent and others, no further informations are available.

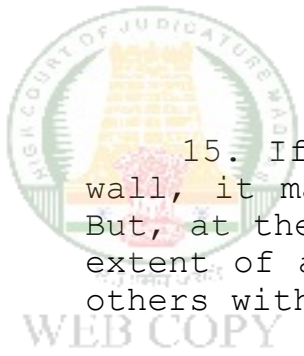
10. With these facts and circumstances in mind, let us now see whether the police protection for the life of the petitioner (*) and **his family members** for construction of compound wall can be granted.

11. As mentioned earlier, two criminal cases have been registered against the third respondent and others. They claim pathway right over the property. But, no pathway is in existence as per the revenue records. However, the third respondent and others stated that the pathway is in existence for more than 50 years and trouble started, when this petitioner tried to put up a compound wall by blocking the common pathway and so, the petitioner is only making trouble. If the petitioner has tried to block the pathway, they ought to have resolved their rights through civil process. Instead of that, they damaged the constructed compound wall. Hence, the above criminal proceedings have also been registered. The petitioner submits that as per the revenue records, no pathway is available. So, whether the pathway is available or not cannot be a matter for consideration in this petition. Since it is a disputed facts, that can be resolved only through civil process.

12. Now, as stated above, till the civil process is over, the third respondent and others cannot make any trouble to the petitioner. Continuous filing of the criminal cases against the third respondent are nothing but an act of terrorizing. Though the third respondent stated that he was prevented to pursue his genuine claim, in the light of registering of the above criminal cases, the contention on the part of the third respondent cannot be accepted. They have tried to take the law in their own hand which is not permissible.

13. The contention on the part of the petitioner is that whenever he visited the properties, the third respondent and others are making trouble, inspite of the undertaking given by them as stated above. Hence , the police protection has to be necessarily given.

14. With regard to the construction issue, the learned counsel for the petitioner would submit that since there is no pathway as per the revenue records, he got every right to put up the construction as ordered in the above said W.P.(MD).No.9162 of 2020 and the same may be extended to this property also.



15. If the police protection is ordered to put up the compound wall, it may not be proper till the Civil Court decides the issue. But, at the same time, protection can be granted only to the limited extent of avoiding trouble at the hands of the third respondent and others with regard to the damage, nuisance etc.,

16. In the light of the above discussion, I am of the considered view that a police protection to the limited extent can be ordered as follows:-

(I) the second respondent is directed to provide police protection to the life of the petitioner **(*)and his family members**, when he visits the place of occurrence. For that purpose, the petitioner must give advance intimation to the second respondent, with regard to his proposed date of visit, time and stay etc., On receiving the information, the second respondent is directed to give police protection to the petitioner **(*)and his family members**.

(ii) police protection to the limited extent can be provided by the second respondent to the property situated in Survey Nos. 78/1B1B, 78/1B1C, 87/1 by providing patta book and the second respondent is directed to ensure the frequent visit of the police personnel. In addition to this, surveillance may also be provided so that no untoward incident takes place.

(iii) with regard to the police protection for putting up compound wall, the parties are directed to resolve their disputes through civil process. Depending upon the civil process, the second respondent may take further action, if any necessity arises to provide police protection for putting up construction.

17. With the above said directions, these writ petitions are allowed to the above said extent. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (Records)

**(*)Corrected as per order of
this Court dated 07.10.2021**

Sd/-

Assistant Registrar (Records)

// 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

(*) to be substituted the order already despatched on 05/10/2021

1. The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram District.
2. The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.HAJA MOHIDEEN GISTHI, Advocate (SR-30268[F] dated 24/09/2021)

W.P. (MD) .No.12001 & 12002 of 2021
23.09.2021

RD(04.10.2021) 6P 5C
SK(CO)
TR(05.01.2022) 6P 5C