



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD)No.1567 of 2019

(Through video Conference)

WEB COPY

Thavasipaul

.. Petitioner

Vs.

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

2.The Deputy Superintendent of Police,
Valliyoore,
Tirunelveli District.

3.The Inspector of Police,
Koodankulam Police Station,
Tirunelveli District.

4.Murugesan

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents 1 to 3 to give adequate police protection to put up fencing at Survey Nos.94/1E, 94/1F and 95/1A2, Chettikulam Village, Radhapuram Taluk, Tirunelveli District vide the petitioner's representation dated 05.01.2019.

For Petitioner : Mr.C.Mayilvahan Rajendran

For R1 to R3 : Mr.B.Thanga Aravindh
Government Advocate

O R D E R

The case of the writ petitioner is that the property in Survey No.95/1 which is subdivided as Survey Nos.94/1A2, 95/1A3 and 95/1A4 and Survey No.94/1E and 94/1F at Chettikulam Village, Radhapuram Taluk, Tirunelveli District is the petitioner's ancestral property, which is in his possession and enjoyment. In the said property he has constructed 10 shops in Survey No.95/1A3 and 95/1A4 and rests of the land is vacant. The third respondent herein has purchased the property adjacent to the said land. In order to promote that land as housing site and to have access to the main road, he attempted to create revenue records as if his water canal is running in the land of the petitioner and also obtained order in connivance with the Tahsildar. The same was challenged by him by way of writ petition and the proceedings of the Tahsildar quashed by this Court in W.P. (MD)No.21356 of 2017 dated 21.11.2017.



2. Even thereafter, the Tahsildar issued a proceedings under Section 6 of the Tamilnadu Land Encroachment Act, 1905 declaring the petitioner herein as an encroacher of the water canal passing through the patta land of the petitioner. Hence, the petitioner again approached this Court in W.P(MD).No.2011 of 2018 to quash the said proceedings of the Tahsildar, dated 04.01.2018. This Court allowed the writ petition on the ground that the proceedings was not in consonance with the procedures contemplated under the Tamilnadu Land Encroachment Act and not in accordance with the observation/direction issued by the Division Bench in its earlier order dated 21.11.2017 passed in W.P.(MD)No.21356 of 2017.

3. While so, it is contended by the petitioner that the third respondent, inspite of the clear orders by the High Court in the previous proceedings, destroyed the fence laid by the petitioner to safeguard his land. In this connection, a criminal case has been registered against the third respondent and his associates in Crime Nos.66/2018 and 279/2018 on the file of Koodankulam Police Station and the same is pending. In the said circumstances, fearing that if he put up any fencing in his land, the third respondent and his henchmen may harm his life and property, the petitioner has given a representation, dated 05.01.2019 to provide police protection when he lay fencing around his land. After forwarding the representation, dated 05.01.2019 through register post, the present writ petition is filed on 24.01.2019.

4. The learned Additional Public Prosecutor would submit that there is dispute regarding the water canal running in between the lands of the petitioner. Further more, for the act of destroying the fencing, case was registered against the third respondent and others. Pending trial, the third respondent died. As far as the representation of the petitioner is concerned, the police protection sought by the petitioner not accompanied with the NOC from the revenue authorities. If any such representation is received by the police along with NOC from the revenue authorities, who claims that there is a water canal runs through the land, same will be considered in accordance with law.

5. In the light of the above submission, this writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (P&A)

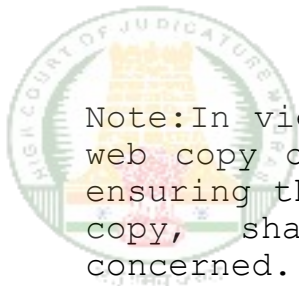
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Sub Assistant Registrar(CS)

PJL

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To
1.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

2.The Deputy Superintendent of Police,
Valliyoor,
Tirunelveli District.

3.The Inspector of Police,
Koodankulam Police Station,
Tirunelveli District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.MAYILVAHANARAJENDRAN, Advocate (SR-39004[F] dated
16/12/2021)

W.P. (MD)No.1567 of 2019
14.12.2021

RD(7.01.2022) 3P 6C