



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2021

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P.(MD)No.15107 of 2020

V.Marimuthu

... Petitioner

Vs.

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

2.The Deputy Superintendent of Police,
Manaparai,
Trichy District.

3.The Inspector of Police,
Thuvarankurichi Police Station,
Marungapuri Taluk,
Trichy District.

4.The Sub Inspector of Police,
Valanadu Police Station,
Trichy District.

5.Dharmaraj

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to issue a direction forbearing the respondents 1 to 4 from interfering in the civil dispute pending between the petitioner and the 5th respondent, which was the subject matter of Appeal Suit in A.S.No.6/2019, on the file of the Sub Court, Manaparai.

For Petitioner	:	Mr.AN.Ramanathan
For R1 to R4	:	Mr.V.Neelakandan
		Additional Public Prosecutor.
For R5	:	Mr.T.Vadivelan

ORDER

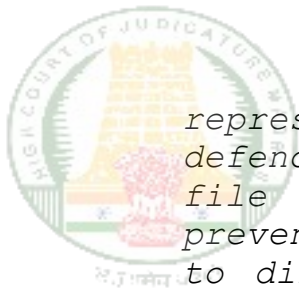
This petition has been filed to issue a direction forbearing the respondents 1 to 4 from interfering in the civil dispute pending between the petitioner and the 5th respondent, which was the subject matter of Appeal Suit in A.S.No.6/2019, on the file of the Sub Court, Manaparai.



2.The learned counsel for the petitioner would submit that the property in S.F.No.157/3 and S.F.No.158/3 of Vallaiyakonpatti Village, Marungapuri Taluk, Trichy District was in possession and enjoyment of Vaguthalwarpatti Panchayat, Marungapuri Taluk, Trichy District. The Vaguthalwarpatti Panchayat has constructed a community hall raised a water tank and also leased the said lands to conduct santhai for the village. While that being so, one T.R.K. Kumara Vijayan claims to be hereditary Trustee of Sri Rajarajendra Soliswarar Mudaiyar Veerama Kaliyamman Temple claims right over the above said property and filed suit in O.S.No.148 of 2004, on the file of the District Munsif Court, Manapparai against panchayat and one A.Rasu for the relief of declaration and consequential injunction. The Panchayat Board contested the suit and the said suit was decreed by judgment and decree dated 07.03.2015. Aggrieved against the judgment and decree in O.S. No.148/2004, the Panchayat had preferred appeal suit in A.S.No.91 of 2015, on the file of the Principal Sub Judge, Trichy and the same was transferred to the file of Sub Court, Manapparai and renumbered as A.S.No.6 of 2019 and the said appeal is still pending.

3.The learned counsel for the petitioner would further submit that the wife of the 5th respondent along with one A.Krishnan, claims to be a tenant under the Hereditary Trustee of Sri Rajarajendra Soliswarar Mudaiyar Veerama Kaliyamman Temple filed O.S.No.236 of 2004, on the file of the District Munsif Court, Manapparai seeking relief of injunction against two defendants initially. As the suit was filed against the defendants in the representative capacity, the petitioner and 5 others impleaded themselves in the suit and contested the same and the suit was decreed on 07.03.2015. Thereafter, the second plaintiff in O.S.No.236 of 2004 had filed a petition in W.P.(MD)No.22439 of 2017 seeking police protection and this Court by order dated 23.02.2018 has clearly held as follows:-

"5.Admittedly, the petitioner has obtained a decree in O.S.No.236 of 2004 on the file of the District Munsif Court, Manapparai against one Palaniyandi Chettiyar and 8 others. According to the petitioner, against the said decree, the defendants in that suit have not filed any appeal and therefore, if any of the defendants or their men or their legal heirs disobeyed the said decree, the petitioner has to file execution petition under Order 21 Rule 32 of the Civil Procedure Code. But, in the affidavit, the petitioner has stated that some identified, unknown persons introducing themselves as villagers of Vellaiyakonpatti, threatened and prevented him from fencing his land. Therefore, the second respondent is directed to enquire the petitioner's



representation and if the enquiry reveals that only the defendants or their men in O.S.No.236 of 2004 on the file of the District Munsif Court, Manapparai have prevented the petitioner from fencing his land, he has to direct the petitioner to file an execution petition before the concerned court. If the enquiry reveals that some other persons prevented the petitioner from fencing the land, then, it is open to him to provide police protection."

4.Admittedly, the present petitioner is also one of the parties in the above suit and therefore, has directed by this Court that the respondent police only have to direct the fifth respondent to file an Execution Petition before the Court below and the respondent police shall not interfere into the civil dispute.

5.When the matter is taken up for hearing today, the learned counsel for the fifth respondent would state that they would approach the Court by filing Execution Petition for fencing and till then, they will not do fencing work.

6.In the present facts and circumstances and in view of the order passed by this Court in the earlier writ petition in W.P. (MD)No.22439 of 2017 and the undertaking given by the fifth respondent, the police shall not interfere in the above matter. Accordingly, this criminal original petition is allowed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gns

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,
Trichy District, Trichy.

2.The Deputy Superintendent of Police,
Manapparai, Trichy District.



3.The Inspector of Police,
Thuvarankurichi Police Station,
Marungapuri Taluk, Trichy District.

4.The Sub Inspector of Police,
Valanadu Police Station, Trichy District.

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

Crl.O.P. (MD)No.15107 of 2020
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