



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order
07.06.2022

Date of Pronouncing Order
10.06.2022

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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.OP.No.15126 of 2016
and
W.P.Nos.4948 & 8165 of 2016

Crl.OP.No.15126 of 2016

J.Subramaniyan, Aged 60 years,
S/o.Jeganathan,
Kurinchinatham Village,
Ariyalur Taluk, Ariyalur District.

... Petitioner

Vs.

1.The Sub Inspector of Police,
Kayarlabath Police Station,
Ariyalur Taluk, Ariyalur District.

2.The Inspector of Police,
Ariyalur Police Station,
Ariyalur Taluk, Ariyalur District.

3.The Superintendent of Police,
Ariyalur.

4.Periyasamy,
S/o.Govindapadaiyachi,
Kurinchinatham Village,
Ariyalur Taluk & District.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the 1st to 3rd respondents to consider the representation letter filed by the petitioner dated 27.06.2016 for give adequate police protection to the petitioner land in old survey No.53, and new survey No.53/8 at Kurinchinatham Village, Ariyalur Taluk, Ariyalur District.



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For Petitioner : Mr.S.Ramajayam

For Respondents: Mr.C.E.Pratab, (for R1 to R3)
Government Advocate

Mr.K.Venkatasubban (for R4)
for M/s.Sarvabhauman Associates

W.P.No.4948 of 2016

J.Subramani, Aged 60 years,
S/o.Jeganathan,
Kurinchinatham Village,
Ariyalur Taluk, Ariyalur District.

... Petitioner

Vs.

1.The Director General of Police,
Radhakrishnan Salai,
Chennai.

2.The Superintendent of Police,
Ariyalur District,
Ariyalur.

3.Samidurai
Sub Inspector of Police,
Kairalabad Police Station,
Ariyalur Taluk & District.

4.Vani,
Sub Inspector of Police,
Kairalabad Police Station,
Ariyalur Taluk & District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Mandamus directing the Respondents No.1 to 2 to consider the representation letter dated 27.1.2016 filed by the petitioner and further directing the 1 to 2 respondents to take action against the 3rd to 4th respondents in accordance with law.

For Petitioner : Mr.S.Ramajayam

For Respondents: Mr.P.Sanjevi Gandhi, (for R1 & R2)
Government Advocate

R3 & R4 - No appearance



W.P.No.8165 of 2016

J.Subramaniyan, Aged 60 years,
S/o.Jeganathan,
Kurinchinatham Village,
Siruvalur Post,
Ariyalur Taluk & District.

... Petitioner

Vs.

1.The District Collector,
Ariyalur.

2.The Revenue Divisional Officer, (RDO)
Ariyalur.

3.The Thasildar,
Taluk Office, Ariyalur.

4.Mathiyazhagan,
Surveyor, The Thasildar Office,
Ariyalur Taluk, Ariyalur.

5.Periyasamy,
S/o.Govindapadaiyachi,
Kurinchinatham Village,
Ariyalur Taluk & District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Mandamus directing the Respondents No.1 to 3 to rectify the revenue records based on all relevant documents filed by the Petitioner and consider his representation letter dated 27.1.2016 and further directing the 1 to 3 respondents to take action against the 4th respondent in accordance with law.

For Petitioner : Mr.S.Ramajayam

For Respondents: Mr.P.Sanjevi Gandhi, (for R1 to R3)
Government Advocate

R4 - No appearance

Mr.K.Venkatasubban (for R5)
for M/s.Sarvabhauman Associates



COMMON ORDER

By an administrative order of the Hon'ble Chief Justice, the above Criminal Original Petition and Writ Petitions are posted before this Court.

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2.Criminal Original Petition No.15126 of 2016 has been filed to direct 1 to 3 respondents to consider the representation filed by the Petitioner dated 27.06.2016, for giving adequate police protection to the Petitioner's land in old Survey No.53, and new Survey No.53/8 at Kurinchinatham Village, Ariyalur Taluk, Ariyalur District.

3.Writ Petition No.4948 of 2016 has been filed for directing the Respondents 1 & 2 to consider the representation letter dated 27.1.2016 filed by the Petitioner and further directing respondents 1 & 2 to take action against 3rd & 4th respondents.

4.Writ Petition No.8165 of 2016 has been filed for directing the Respondents 1 to 3 to rectify the revenue records based on all the relevant documents filed by the Petitioner and consider his representation letter dated 27.1.2016 and further directing Respondents 1 to 3 to take action against the 4th Respondent.

5.The learned Government Advocate has filed counter affidavit for the 3rd Respondent in W.P.No.8165 of 2016 so also counter affidavit of the 5th Respondent in W.P.No.8165 of 2016 was filed.

6.The common facts and circumstances leading to filing of the above cases are the Petitioner enjoyed the property in old Survey No.53 and new Survey No.53/8 in his village and he has running a tea shop for the past 60 years. While so, one Periyasami's family and others filed civil suit against the Petitioner in O.S.No.131 of 1978 for seeking injunction on his land for pathway. The said Suit was ordered, then the Petitioner challenged the said Suit in A.S.No.21 of 1982, before the Sub Court, Ariyalur and the same was allowed. According to the Petitioner, the revenue officials are influenced by the 4th Respondent in Crl.OP.No.15126 of 2016 and accordingly, created revenue records and FMB records and based upon that only new pathway was tried to be put up in the Petitioner's land.

7.The main grievance of the Petitioner is that after creating forgery records, the 4th Respondent's (in Crl.OP.No.15126 of 2016) family came to the Petitioner's tea shop and demolished the tea shop's hut and tried to trespass into the Petitioner's land on 20.12.2015. The Petitioner lodged



complaint on the same day and got CSR receipt. While so, the 1st Respondent official supported the 4th Respondent in Crl.OP.No.15126 of 2016 and the police officials only instructed the accused to commit the offence. Then, the Petitioner sent representation dated 27.01.2016 to the higher official for taking action against the police concerned, who supported the commission of offence and he filed W.P.No.4948 of 2016 for taking action against the police concerned. Thereafter, the Petitioner sent another representation to the revenue officials dated 27.01.2016 for changing the revenue records in the FMB sketch of the petitioner's land. Then the Petitioner filed another W.P.No.8165 of 2016 for considering the representation for changing the FMB sketch in accordance with earlier order passed by the Appellate Court.

8.Perused the representation made by the Petitioner dated 27.06.2016. In the said representation, the prayer of the Petitioner is that to take necessary action against the Sub Inspector named therein and also for taking action in accordance with law. In the said representation there is no prayer for giving adequate police protection to the Petitioner's land in in old Survey No.53, and new Survey No.53/8 at Kurinchinatham Village, Ariyalur Taluk, Ariyalur District.

9.The learned Government Advocate made his submission based upon the counter affidavit filed by the Tahsildar/3rd Respondent in W.P.No.8165 of 2016, wherein the Tahsildar has been stated as under:

"The petitioner has stated in his affidavit that he had enjoyed the property in old S.F.No.53 and new S.F.No.53/8 in Kurichinatham Village, Ariyalur Taluk & District. And it is said to have been the petitioner has own Tea shop and it is running for the past 60 years. The petitioner has also stated that One Periyasamy family had filed a case before the District Munsif Court, Ariyalur in O.S.No.131/1978 and prayed injunction for the Path Way existing which is being used by the General Public in the disputed land and in the case, it was contended that the petitioner has encroached pathway by putting Thatched Shed and obstructing the General Public as well as to some other land owners. The said suit was decreed against the petitioner and the petitioner had filed Appeal before the Sub-Court in A.S.No.21 of 1982 and the same was set aside by the Sub-Court, Ariyalur on 18-2-1983 by the reasons that both petitioners and defendants have not proved that there is pathway exist in the said suit property.

...

After lapse of at about 33 years from the date of



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Judgment of Sub-Court, Ariyalur, the petitioner has given application to the Revenue Authorities to make correct measurement for his purchased property.

Based on the application given by the petitioner, the Inspector of Survey, Land Records, Ariyalur had inspected the site on 21-1-2016 along with the Village Administrative Officer and Taluk Surveyor of the Village. They have submitted a detail report to the Assistant Director of Survey and Land records, Ariyalur on 21-1.2016 and stated that "the Patta No.of Petitioner's property is 456 and it is situated in S.F.No.53/8. As per the sale deed No.2605 dated 3.10.1966 the extent purchased by the petitioner is 70 Feet in East to West and 30 Feet in North to South. The registered extent of S.F.No.53/8 is 746 Sqm., out of this, the Petitioner has purchased an extent of 128 Sqm.,. This is sub-divided as S.F.No.53/8A. Further, an extent of 122 Sqm., was purchased by one Thiru.Sankar and this portion is sub-divided as S.F.No.53/8B. The petitioner's purchased portion is registered as joint Patta in the Village Accounts and its Patta No. is 456. Apart from this, some other pattadars are enjoying some extent in the same S..No.53/8 and remaining portion is kept as Pathway in the Village Accounts. The petitioner is trying to encroach the pathway which is sub-divided after the field inspection by the Inspector of Survey, Ariyalur.

The petitioner's purchased extent was clearly measured by the Survey Authorities and shown to the petitioner. Necessary Sub-Division records were also prepared and incorporated in the Village and Taluk set of Accounts. The petitioner has also given statement before the Inspector of Survey, Ariyalur on the same date. (Copies of report and the statement of the petitioner are enclosed.)"

The Tahsildar, Muthukrishnan in his affidavit has stated that the measurements of the property purchased by the Petitioner are 70 feet in East to West and 35 feet in North to South in old S.F.No.53. As per the measurements shown in the Petitioner's purchase deed, the actual measurements were surveyed by the Survey Department and Sub-divided in the Revenue FMB records as well as Village records and this fact was well known by the Petitioner.



10. In view of the factual position given by the Field Officer viz., Tahsildar, Ariyalur Taluk and also the fact that only a small extent of land purchased by the Petitioner under the sale deed viz., 125 sq. ft and there was a proper sub division as S.F.No.53/8A and hence in view of the specific counter affidavit filed by the Field Officer on the ground reality that the general public also gave Petition to Tahsildar, Ariyalur on 02.09.2015 to evict the encroachment made by the Petitioner in the existing pathway in SF.No.53/8 and hence I find that the Petitioner is indirectly seeking relief of not to disturb his unauthorised encroachment in the disputed property. Since the relief sought for in the representation dated 27.06.2016 has already been complied with, Crl. OP.No.15126 of 2016 stands dismissed.

11. W.P.No.4948 of 2016

The prayer sought for in W.P.No.4948 of 2016 is to dispose of the representation dated 27.01.2016, wherein the Petitioner herein seeking for necessary action against the Sub-Inspector of Police and Government authorities. As per the report of the Tahsildar, new FMB has been prepared long back and hence this Writ Petition is not maintainable and is liable to be dismissed and further, it is open to the Petitioner to challenge the same before the appropriate civil forum, if he be so be advised.

12. W.P.No.8165 of 2016

The prayer sought for in W.P.No.8165 of 2016 is to dispose of the representation dated 27.01.2016. In view of the counter affidavit filed by the official respondent/3rd Respondent in W.P.No.8165 of 2016, I find that FMB sketch has been prepared in accordance with law and sub division, dividing common pathway has been effected in the old FMB and hence the action taken by the Tahsildar/3rd Respondent appears to be just and proper. However, it is open to the Petitioner to challenge the same before the competent authority. Since the representation dated 27.01.2016 has been duly complied with and reasons assigned by the revenue authorities/R3 in W.P.No.8165 of 2016 as to demarcation and specification in the old FMB about the common pathway, I do not find anything survives in the Writ Petition. Accordingly, W.P.No.8165 of 2016 is dismissed as infructuous.

13. With the above observations, W.P.No.4948 of 2016 is dismissed and W.P.8165 of 2016 is dismissed as infructuous. No costs.



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In fine, Cr1.OP.No.15126 of 2016 is dismissed.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

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To

- 1.The Director General of Police,
Radhakrishnan Salai,
Chennai.
- 2.The District Collector,
Ariyalur.
- 3.The Revenue Divisional Officer, (RDO)
Ariyalur.
- 4.The Superintendent of Police,
Ariyalur District,
Ariyalur.
- 5.The Thasildar,
Taluk Office, Ariyalur.
- 6.The Sub Inspector of Police,
Kayarlabath Police Station,
Ariyalur Taluk, Ariyalur District.
- 7.The Inspector of Police,
Ariyalur Police Station,
Ariyalur Taluk, Ariyalur District.

+1cc to M/s.Sarvabhauman Associates, Advocate SR.No.34354
+1cc to M/s.Sarvabhauman Associates, Advocate SR.No.34356
(28/06/2022)

Cr1.OP.No.15126 of 2016
and
W.P.Nos.4948 & 8165 of 2016

PM(CO)
GMY (24/06/2022)