



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P. No.13967 of 2022

R.Thangarasu

... Petitioner

Vs.

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

2. The Inspector of Police,
Gangavallli Police Station,
Gangavallli,
Salem District.

3. P.Manjula

4. Sivakumar

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Mandamus to forbear the respondents 1, 2 and 4 from in any manner interfering the petitioner peaceful possession in pending disposal of the Suit in O.S.No.45 of 2022 on the file of the Subordinate Judge, Attur in respect of sub-divided lands, comprised in Survey No.176/1A Gangavalli, Salem District.

For Petitioner : Mr.E.C.Ramesh

For R1 and R2 : Mr.A.Gokulakrishnan

Additional Public Prosecutor

For R3 : Mr.R.Jayaprakash

O R D E R

The Writ Petition has been filed to direct the respondents 1, 2 and 4 from in any manner interfering the petitioner peaceful possession in pending disposal of the Suit in O.S.No.45 of 2022 on the file of the Subordinate Judge, Attur in respect of sub-divided lands, comprised in Survey No.176/1A Gangavalli, Salem District.

2. Heard the learned counsel for the petitioner, learned Additional Public Prosecutor for the respondent police and the counsel for the 3rd respondent.



3. It is the main grievance of the petitioner that there is a dispute over the immovable property. The petitioner had purchased the property in the year 2013, whereas the 3rd respondent had purchased some property from the same vendor in the year 2020 and there is a dispute, in respect of which, a suit in O.S.No.45 of 2022 has been filed and it is pending on the file of the Subordinate Judge, Attur. The relief sought in this petition is for declaration and injunction.

4. In the meanwhile, without serving any notice, the 3rd respondent have filed a petition in Crl.O.P.No.5708 of 2022, seeking police protection for fencing the property and this Court by an order dated 14.03.2022 had directed the respondent police to give opportunity to the petitioner and take a call on it. Without any opportunity being granted, with the help of the police, the property has been fenced. Therefore, it is the contention that the 3rd respondent and others will not interfere in the immovable property of the petitioner.

5. Though, this Court by an order dated 14.03.2022 directed the respondent police to give notice to the adjacent land owners and thereafter, provide police protection, no notice was served on the petitioner herein and the land was fenced. It appears that with the help of the police, the property has been fenced, pending disposal of the suit in O.S.No.45 of 2022 in respect of the property.

6. In such view of the matter, this Court is of the view that unless and until the Civil Court disposes the suit over the rights of the parties, the police have no right to interfere with the matter for fencing the property. If any fencing has been made, the learned Civil Judge, who is dealing with the suit in O.S.No.45 of 2022 shall consider the same and the same has been done during the pendency of the suit. The order of this Court dated 14.03.2022 will no way stands in the way of the Civil Court and it may decide the matter on its own merits.

7. The Hon'ble Apex Court repeatedly deprecated that the blanket police protection cannot be granted, particularly with regard to the immovable property. In this aspect, the Hon'ble Apex Court in the case of ''PR.Muralidharan and others Vs.Swami Dharmananda Theertha Padar'' reported in 2006 4 SCC as held as follows:

''...19.A Writ for ''Police Protection'' so-called, has only a limited scope, as when the Court is approached for protection of rights declared by a decree or by an order passed by a civil Court. It cannot be extended to cases where rights have not been determined either finally by the civil Court or, at least at an interlocutory stage in an unambiguous manner, and then too in furtherance of the decree or order.''



8. As per the order of the Hon'ble Apex Court, this Court is of the view that unless there is a decree or order in respect of the immovable property in favour of the petitioner or any execution petition is filed, only in that scenario of extraordinary circumstances, police protection may be granted. As a matter of right, blanket police protection cannot be granted in respect of the immovable property, where dispute is lingering between the parties.

9. With the above directions, this Writ Petition is disposed of.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rgi/ham
To

1. The Superintendent of Police,
Salem District,
Salem.
2. The Inspector of Police,
Gangavallli Police Station,
Gangavallli,
Salem District.
3. The Public Prosecutor,
High Court of Madras.

+1 cc to Mr.E.C.Ramesh, Advocate Sr.NO. 36646

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PM(CO)
A.SK(27/06/2022)