



W.P No.23998 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2022

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

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V.Sarasathal

... Petitioner

Vs.

1. The Inspector of Police,
Avinashipalayam Police Station
Avinashipalayam,
Tiruppur District.

2. The Superintendent of Police
Tiruppur Rural District
Palladam Road, Tiruppur

3.P.Ramasamy

4.P.Nataraj

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus directing the 1st and 2nd respondents herein to provide police protection for life and safety of the petitioner, her family members and workers in using the pathway and to take legal action against the 3rd and 4th respondents herein for posing life threats and



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damaging the pathway in S.F.No.339/2A/2B of Thonguttipalayam Village, Tiruppur South Taluk, Tiruppur District, based on the petitioner's complaint dated 25.08.2021 to the 1st respondent herein.

For Petitioner : Mr.P.M.Duraiswamy

For Respondents : Mr.A.Damodaran for R1 & R2
Additional Public Prosecutor

Mr.P.Mahesh Kumar for R3 & R4

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus directing the 1st and 2nd respondents herein to provide police protection for life and safety of the petitioner, her family members and workers in using the pathway and to take legal action against the 3rd and 4th respondents herein for posing life threats and damaging the pathway in S.F.No.339/2A/2B of Thonguttipalayam Village, Tiruppur South Taluk, Tiruppur District, based on the petitioner's complaint dated 25.08.2021 to the 1st respondent herein.



2. Heard the learned counsel appearing for the petitioner, the learned

Additional Public Prosecutor appearing for the respondents 1 & 2 and also the learned counsel appearing for the respondents 3 & 4.

3. The case of the petitioner is that he has purchased the agricultural land in Survey No.340/2A, measuring an extent of 4 acres which is situated at Thonguttipalayam Village, Tiruppur South Taluk, under a sale deed dated 31.03.1975 and she is in possession and enjoyment of the same; in the sale deed itself, it is stated that there exists on the east – west pathway on the southern side land belonged to the 3rd respondent in Survey No.339/2 for the passage of vehicles from Rakkiyagoundanpalayam – Paruvakaraipalayam Road to the petitioner's land; the said pathway is common for the petitioner and the neighbouring land owner in S.F.No.337 of Thonguttipalayam Village; the pathway would measure 13 feet width and the same has been in usage of the petitioner for nearly 45 years without any hindrance or disturbance; on 13.04.2021, the 3rd and 4th respondents obstructed the usage of pathway by digging pits with JCB machine on the northern side; when the petitioner requested the 3rd respondent to close the pits, he refused to close the same; the 3rd respondent planted coconut



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saplings in the said pits dug up on the northern side and made threats to the petitioner from using the said pathway; in view of the threats caused by the 3rd and 4th respondents, the petitioner was unable to use the pathway and transport the agricultural products; when the petitioner made a complaint in this regard, on 25.08.2021, the 1st respondent refused to receive the complaint; the petitioner has also given a representation for police protection, but no order was passed; hence, the petitioner was forced to file this petition seeking for police protection.

4. Mr.A.Damodaran, learned Additional Public Prosecutor submitted that the matter is purely a civil in nature and without the order or judgment of the Court, the police cannot give protection to either of the parties and in view of the pending civil dispute, this petition should be dismissed.

5. From the submission of the petitioner, it is known that there is a pathway dispute between herself and the respondents 3 & 4. In such context of the matter, it would be appropriate for the petitioner to file a civil suit and get the remedy.



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6. Unless the claim of the petitioner that there is a pathway in the land of the respondents 3 and 4 is accepted by the courts and an order is granted, the police cannot interfere and take any steps in favour of either of the parties. Had the petitioner got a decree or interim order and the order is not obeyed by the respondents 3 & 4, then it would be appropriate for the petitioner to seek police protection.

7. The cause of action that has arisen in favour of petitioner in filing a Civil Suit cannot be circumvented by making a representation seeking police protection in using the pathway situated in S.F.No.339/2A/2B of Thonguttipalayam Village, Tiruppur South Taluk, Tiruppur District. It is not the case of the petitioner that he had obtained an order or decree from the Court and that the 3rd and 4th respondents were obstructing him from executing the order or decree. So the relief sought for by the petitioner cannot be granted and the present petition is liable to be dismissed.



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8. In the result, this Writ Petition stands dismissed. No costs.

However, the petitioner is at liberty to work out her remedy before the competent Civil Court in accordance with law, if the cause of action is within the period of limitation.

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Index : Yes/No
Speaking Order : Yes / No

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To

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Avinashipalayam Police Station
Avinashipalayam,
Tiruppur District.

2. The Superintendent of Police
Tiruppur Rural District
Palladam Road, Tiruppur

2. The Public Prosecutor
High Court of Madras.



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R.N.MANJULA,J

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