



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2022

CORAM

THE HON'BLE MR JUSTICE A.D.JAGADISH CHANDIRA

W.P.No.25930 of 2021

S.F.Shabeer,
S/o.Shake Fazululla

... Petitioner

Vs

1.The Superintendent of Police,
Office of the District Police Office,
Cuddalore District.

2.The Inspector of Police,
Kattumannar Koil Police Station,
Kattumannar Koil,
Cuddalore District.

3.Wadhooth Khan,
S/o.Mansoor Khan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first and second respondents to provide adequate police protection to the petitioner and lands bearing Survey Nos.103/1, 2, 3 admeasuring about total extent of 9.60 Acre/Cents situated at Udayargudi Village, Kattumannar Koil Taluk, Cuddalore District belongs to Ramzan Thaikka Mosque based on his representation dated 02.11.2021.

For Petitioner : Mr.S.Kumaradevan

For Respondents:

For R1 & R2 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This Writ Petition has been filed seeking to direct the first and second respondents to provide adequate police protection to the petitioner and lands bearing Survey Nos.103/1, 2, 3 admeasuring about total extent of 9.60 Acre/Cents situated at Udayargudi Village, Kattumannar Koil Taluk, Cuddalore



District belongs to Ramzan Thaikka Mosque based on his representation dated 02.11.2021.

2. The case of the petitioner is that he is the Assistant Muthavalli of Ramzan Thaikka Wakf and the Wakf is notified one as per the Wakf Act, 1959 on 06.05.1959 and the main object of the Wakf is to perform pious, religious and charitable act.

3. A property in Survey Nos.103/1, 2 & 3 admeasuring the total extent of 9.60 Acre/Cents situated at Udayargudi Village, Kattumannar Koil Taluk, Cuddalore District has been granted to one Ramzansha in order to maintain the Thaikka and Chavadi and the said grant was confirmed under R.O.No.1107 of Udayargudi Village by the Inam Commissioner on 08.10.1861.

4. The Thaikka came to known as Ramzansha Thaikka. The said Ramzansha and his descendants were in possession and enjoyment of the aforesaid property only in the capacity of Muthavallies and for maintaining the said Thaikkas and the Chavadi. While so, some third parties applied for Patta in respect of the above Survey Numbers before the Inam Abolition Tribunal, Cuddalore in I.A.T.No.6 of 1983 and the Ramzan Thaikka Wakf has filed an implead petition, but the settlement officer had dismissed the implead petition, thereby, civil litigations are pending between the parties. Thereafter, Ramzan Thaikka Wakf preferred an appeal against the said order passed by the Inam Abolition Tribunal, Cuddalore in I.A.T.No.6 of 1983 and sought for recovery of possession in S.T.A.No.10 of 1989 before this Court and the other encroacher Wadhooth Khan, the third respondent herein has preferred an appeal in S.A.Nos.1466 to 1468 of 1992 against the order passed by this Court in O.S.Nos.710, 711, 712 of 1986.

5. The third respondent attempted to interfere with the peaceful possession and he has also filed a suit in O.S.No.55 of 2009 on the file of the Wakf Tribunal (Principal Sub-Court, Cuddalore) against the Ramzan Thaikka Wakf/Mosque to declare the above said property in favour of the Periya Pallivasal @ Udayargudi Mosque and also to restrain the Ramzan Thaikka Wakf/Mosque in any manner dealing or interfering with the Periya Pallivasal @ Udayargudi Mosque and the said suit was dismissed by the Judgment and Decree dated 04.04.2012.

6. Challenging the Judgment and Decree, the third respondent has filed a Civil Revision Petition in C.R.P.No.2839 of 2012 before this Court, the same was dismissed by an order dated 29.09.2021 and this Court has confirmed that the above said property belongs to the Ramzan Thaikka Wakf/Mosque.



7. On 26.10.2021, the petitioner has entered in to the property to clear the bushes and wastages, whereas, the third respondent restrain the petitioner to vacate the place immediately. Thereafter, the petitioner has sent a complaint to the first and second respondents on 02.11.2021, to take action against the third respondent and to provide adequate police protection to the petitioner. Since no action has been taken against the third respondent, the present petition has been filed seeking for police protection.

8. The learned Additional Public Prosecutor for the first and second respondents would submit that earlier with the similar prayer Muthavalli of the Ramzan Thaikka Mosque (Pallivasal) has filed W.P.No.11959 of 2021 and this Court by an order dated 20.05.2021 found that the private respondents are claiming rights over the property and dismissed the aforesaid writ petition by granting liberty to the petitioner to agitate the issue in the manner known to law to establish his right vis-a-vis the third party respondents.

9. The learned Additional Public Prosecutor would further submit that since the matter relates to private dispute between the parties, the first and second respondents have not interfered.

10. Against the dismissal of the writ petition, a writ appeal was preferred by the Muthavalli of Ramzan Thaikkal Mosque (Pallivasal) in W.A.No.1663 of 2021 and the order passed by the learned Single Judge of this Court has been confirmed and the writ appeal was dismissed by an order dated 07.10.2021.

11. Taking into consideration the fact that this issue has been already considered by this Court in W.P.No.11959 of 2021 dated 20.05.2021, this Writ Petition stands dismissed as not maintainable. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

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To

1.The Superintendent of Police,
Order of the District Police Office,
Cuddalore District.

2.The Inspector of Police,
Kattumannar Koil Police Station,
Kattumannar Koil,
Cuddalore District.

3.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.S.Kumaradevan, Advocate SR.No.9640

W.P.No.25930 of 2021

KG(CO)
GMY(03/03/2022)