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W.P.No.29536 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

W.P.No.29536 of 2022

S.P.Sivakumar

...

Petitioner

/vs/

1.The Superintendent of Police,
Salem District.

2.The Deputy Superintendent of Police,
Mettur Dam, Salem District.

3.The Inspector of Police,
Mecheri Police Station, Mecheri,
Mettur, Salem District.

4.Poovalagan

5.Boovaragavan

6.Chinnapillai

7.Dharmalingam

8.Rathinavel

...

Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondents 1 to 3 to protect the petitioner from 1.Poovalagan S/o Arumugam, 2.Boovaragavan S/o.Arumugam, 3.Chinnapillai, W/o. Arumugam, 4.Dharmalingam S/o.Kullappa Gounder, 5.Rathinavel S/o. Chinnappagounder (respondents 4 to 8) and their men by



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providing necessary police aid/protection to enter upon his property situated in Survey No.453/6B to the extent 0.93.5 hectares- five houses bearing Door Nos.6/5-12A, 6/6-12B, 6/6-12-C, 6/6-12D and 6/6-12F in Mechaeri Village, Mettur Taluk, Salem District.

For Petitioner ... Mr.S.Parthasarathy, Senior Advocate
for Mr.S.K.Rameshwar.

For Respondents ... Mr.E.Raj Thilak
Additional Public Prosecutor for RR1 to 3

ORDER

The Writ Petition has been filed to direct the respondents 1 to 3 to protect the petitioner from the respondents 4 to 8 and their men by providing necessary police aid / protection to enter upon his property situated in Survey No.453/6B to the extent 0.93.5 hectares- five houses bearing Door Nos.6/5-12A, 6/6-12B, 6/6-12-C, 6/6-12D and 6/6-12F in Mechaeri Village, Mettur Taluk, Salem District.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents 1 to 3 and perused the material available on record.

3. Mr.S.Parthasarathy, learned Senior Counsel appearing on behalf of Mr.S.K.Rameshwar, learned counsel for the petitioner submitted that the



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petitioner had purchased the property measuring an extent of 0.93.5 hectares comprised in Survey No.453/6B and five houses bearing Door Nos.6/5-12A, 6/6-12B, 6/6-12-C, 6/6-12D and 6/6-12F at Mechaeri Village, Mettur Taluk, Salem District, by virtue of a Sale Deed dated 25.04.1995. Since the distant relatives of the petitioner namely 1.Arumugam(died), 2.Rathinavel, 3.Iyyathal (died), 4.Dharmalingam, 5.Saraswathi were trying to interfere with the peaceful possession and enjoyment of the property, the petitioner had filed a civil suit in OS.No.422/1995 before the District Munsif Court, Mettur and his opponents have also filed a suit in OS.Nos.587/1988, 304/1990, 664/1990 and 424/1994 before the same Court and the District Munsif Court dismissed all the said suits vide its Judgement dated 19.07.2004; the petitioner had preferred a First Appeal in AS.No.2/2005 and his opponents have filed AS.Nos.11/2007 and 12/2007 before the Sub Court, Mettur; the said appeals were also dismissed by the Sub Court. Thereafter, the petitioner preferred a Second Appeal in SA.No.1567 of 2008 before this Court and the same was allowed on 23.03.2021; the opponents of the petitioner have filed SLP in SLP(c) No.12606/2021 and the same was dismissed by the Hon'ble Supreme Court; despite the civil dispute between the petitioner and the respondents have attained finality, the petitioner is not allowed to enjoy the property peacefully and hence, he has given a representation to the 3rd respondent police for providing police protection; so far no action has been



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taken; hence the Writ Petition has been preferred.

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4. Mr.E.Raj Thilak, learned Additional Public Prosecutor for the respondents 1 to 3 submitted that since the petitioner had obtained an order in his favour, he can file an execution petition and get an order from the Executing Court.

5. However, Mr.S.Parthasarathy, learned Senior Counsel appearing on behalf of Mr.S.K.Rameshwar, learned counsel for the petitioner attracted the attention of this Court on the earlier order passed by this Court in WP.No.18414 of 2021 wherein a direction has been given in a case involving similar facts. Even though the petitioner is entitled to file an execution petition, he can seek police protection only before the 3rd respondent on the strength of the judgment obtained in the second Appeal.

6. The fact remains that the respondents have challenged the second appeal by way of filing SLP before the Hon'ble Supreme Court and the same was also dismissed. So the petitioner's possession over the subject matter has been upheld by the Court and judgment have been given in favour of the petitioner. Hence the respondents 1 to 3 are obliged to consider the representation given by



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the petitioner dated 23.09.2022 and do the needful in accordance with law within a period of two weeks.

With the above observation, this Writ Petition is **disposed of**. The respondents 1 to 3 are directed to complete the enquiry within a period of two weeks from the date of receipt of copy of this order and do the needful in accordance with law. No costs.

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jrs

Internet: Yes/No

Index: Yes /No

Speaking /Non Speaking



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R.N.MANJULA, J.

jrs

To

- 1.The Superintendent of Police,
Salem District.
- 2.The Deputy Superintendent of Police,
Mettur Dam, Salem District.
- 3.The Inspector of Police,
Mecheri Police Station, Mecheri,
Mettur, Salem District.
- 4.The Public Prosecutor,
High Court, Madras.

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