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W.P.No.29726 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.29726 of 2022

C.R.Kumar

...

Petitioner

versus

1.The State Rep. by
Inspector of Police (L & O),
E-4, Abhiramapuram Police Station,
Chennai - 600 028.

2.The Residents,
Hiranya Apartments,
No.68, Greenways Road,
R.A.Puram,
Chennai - 600 028.

...

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, praying to direct the first respondent to consider the representation of the petitioner dated 24.09.2022 to provide police protection to the schedule mentioned property to enable the petitioner to fence the same.

For Petitioner : Mr.M.Aravind Subramaniam

For Respondent No.1 : Mr.S.Santhosh
Government Advocate (Crl.Side)



ORDER

This Writ Petition has been filed seeking for a mandamus to direct the first respondent to consider the representation of the petitioner dated 24.09.2022 to provide police protection to the schedule mentioned property and to enable him to fence the same.

2. The learned counsel for the petitioner submitted that the subject property along with its larger extent was owned by one C.S.Sastri, who is the grandfather of the petitioner by virtue of a registered sale deed dated 04.04.1935. The grandfather of the petitioner had developed two pathways and divided the property into 33 sites. After retaining plot Nos.1, 5, 6 and 33, the rest of the sites being sold by him to various individuals. The house site bearing No.5A forms part of the site No.5 and it was settled in favour of one V.K.V.Prasad in the year 1976.

3. On 20.04.1987, the said V.K.V.Prasad along with the sons of the grandfather of the petitioner C.S.Sastri had executed a Power of Attorney in favour of C.S.Sastri in order to carry out construction in the sites bearing Nos.33, 5, 6 and 5-A by one M/s.Krest Development and



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Leasing Ltd. and to that effect an agreement of sale dated 21.04.1987 was executed. The grandfather of the petitioner C.S.Sastri died in the year 1988 and thereafter, the petitioner's father C.N.Prasad had inherited his property and after the demise of the petitioner's father, the petitioner had inherited the same. There is a road laid by name 'Chavali Family Road' by the petitioner's family through which they have access to their above mentioned properties and the road is also referred as 'V2-V2 Road'. In this regard, a suit has also been filed in O.S.No.728 of 2020 before the learned VIII Assistant Judge, City Civil Court, Chennai and that was decreed on 03.09.2022.

4. The petitioner communicated the judgment and decree to the second respondent 'Hiranya Apartments' which is situated at Greenways Road and Extension. Despite that the residents of the second respondent continue to enter into the exclusive road belonging to the petitioner. They also haphazardly park the vehicles and recklessly drive on the private road to the petitioner's family and dump garbage and thereby cause nuisance.



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5. The second respondent claims that the decree obtained in O.S.No.728 of 2020 will not bind them in any manner, since they are not party to the proceedings. The petitioner sought for police protection and gave a representation to the first respondent on 24.09.2022 and the same was not considered. Hence, this writ petition has been filed.

6. The learned Government Advocate (Crl. Side) appearing for the first respondent submitted that the matter is civil in nature and in which the police has got no role to play and so no police protection can be given.

7. The records would show that the petitioner had filed a suit in O.S.No.728 of 2020 against The Commissioner, Corporation of Chennai and The Zonal Officer, Corporation of Chennai, Zone-13 and sought a relief of permanent injunction from interfering in his enjoyment over the suit property. The property particulars in O.S.No.728 of 2020 has been described as under:-

“Suit property is a private road called as “Chavali Family Road”, situated in Survey Number 3958/1 & 4 at Mylapore Village, Raja



Annamalaipuram, Chennai, within Zone 13 of the Corporation of Chennai, connecting the plaintiff's house with Greenways Road Extension. The boundary of the said road is North by plaintiff's property and houses of other family members of C.S.Sastri, South by Hiranya Apartment (112 flats), East by Greenways Road Extension, West by Property owned by Krishnamurthy called as "Vasanth Vihar". The private road is approximately 120 meter length and 9 meter width and in total consisting of an extent of approximately 1080 sq.m."

8. In the particulars of the property, the second respondent 'Hiranya Apartments' is shown on the South. It is correct that the second respondent 'Hiranya Apartments' is not a party to the proceedings held between the petitioner and the Corporation Officers in O.S.No.728 of 2020. The petitioner claims that 'Chavali Family Road' belongs to their family and no one have got right to access there. Since the second respondent is not a party to the suit filed by the petitioner, the petitioner has got a cause of action for a civil suit as against the second respondent as well. However, the first respondent police can also consider the representation given by the petitioner dated 24.09.2022 on the strength of the judgment made in O.S.No.728 of 2020 and do the needful in accordance with law within a period of two weeks from the date of receipt of a copy of this order.



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9. With the above observations, this Writ Petition stands disposed of. No costs.

10.11.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

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To

- 1.The State Rep. by
Inspector of Police (L & O),
E-4, Abhiramapuram Police Station,
Chennai - 600 028.
- 2.The Public Prosecutor,
Madras High Court,
Chennai.



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R.N.MANJULA, J.

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