



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1 OP(MD)No.1226 of 2022

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Sri Ramakrishna Thapovanam,
Rep.by its Secretary,
Swamy Sathyananda,
Thiruparayathurai, Srirangam, Trichy.

... Petitioner

vs.

- 1.The Superintendent of Police,
Theni, Theni District.
- 2.The Deputy Superintendent of Police,
Uthamapalayam Division, Uthamapalayam,
Theni District.
- 3.The Inspector of Police,
Odaipatti Police Station,
Odaipatti, Uthamapalayam, Theni District.
- 4.Swami Athmananda,
Sri Sarada Niketan College of Arts-Science
for Women,
Dakshineswaram, Kanavaiputhur Post,
Salem - 636 354.

Presently residing at
Pallapalayam, Via Irugoor,
Sulur Taluk, Coimbatore Distrcit.

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Cr.Pc, to direct the respondents 1 to 3 to provide adequate protection to the petitioner and its members in undertaking the work of surveying and fencing the properties in S.Nos.13/1, 13/3, 17/2, 17/3, 17/4, 17/5, 17/6, 17/7, 24/1 and 24/2 in Odaipatti Village, Uthamapalayam Taluk, Theni District admeasuring an extent of 8 acres 86 cents and lands in S.Nos.11/2A, 11/2B, 11/2C, 11/2D, 11/2E, 11/2F, 11/3A, 11/3B, 11/3C, 11/3D, 11/3E, 18/3, 24/2, 25/8, 7/4 and 7/5 admeasuring 33 acres and 80 cents in Seepalakottai Village, Uthamapalayam Taluk, Theni Distrcit and using the same for developmental activities peacefully and without any unlawful disturbances from the fourth respondent or any third parties or disgruntled elements in any manner whatsoever and pass such other suitable orders and thus render justice.



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For Petitioner : Mr.V.Ramakrishnan
For Respondents : Mr.B.Thanga Aravindh,
Government Advocate (crl.side)
for R1 to R3

Mr.M.P.Senthil for R4

ORDER

This criminal original petition has been filed seeking police protection. The fourth respondent opposes the grant of relief primarily on the ground of maintainability. According to the fourth respondent, the petition mentioned property no doubt was declared to belong to the petitioner-Thapovanam. But then, by a resolution, it was permitted to be in the possession and enjoyment of the fourth respondent. Therefore, the fourth respondent is very much having independent civil rights and the same cannot be interfered with by this Court in exercise of its jurisdiction under Section 482 of Cr.PC. The learned counsel for the fourth respondent relied on the decision reported in **(2007) 6 SCC 517 (Moran M.Baselios Marthoma Mathews II and ors vs. State of Kerala and ors)** and contended that High Court cannot in these proceedings go into disputed questions of title.

2. There is no dispute on basic facts. The fourth respondent was an ordained Sanyasi and a part of Shri.Ramakrishna Thapovanam/petitioner. But then, dispute arose between Thapovanam on the one hand and the fourth respondent on the other leading to institution of O.S No.1254 of 1994 on the file of the Sub Court, Trichirappalli. The suit schedules comprised properties located in different places. One of the items is located in the petition mentioned villages. The petition mentioned properties forming part of a larger extent was one of the suit schedule items. By judgment and decree dated 07.08.1998, the Thapovanam was declared to be the absolute owner of the suit properties and educational agency with respect to the suit institutions A & B Schedule properties and directions were issued against the fourth respondent herein who figured as the first defendant in the suit. Aggrieved by the same, the fourth respondent Sri Ramakrishna Ashramam Trust and Sri Ramakrishna Shevasraman Trust filed A.S No.568 of 1998 before the Madras High Court. Vide judgment and decree dated 13.10.1999, the appeal was dismissed. Challenging the same, the fourth respondent herein and others filed Civil Appeal No.2395 of 2000 before the Hon'ble Supreme Court of India. The civil appeal suffered dismissal on 13.04.2005. Therefore, it is too late in the day for the fourth respondent to assert any right or claim in respect of the petition mentioned property against the petitioner Thapovanam.



3.It appears that the governing council of the Thapovanam had passed a resolution on 25.04.2009 granting permission to the fourth respondent herein to remain in possession of the petition mentioned property during his lifetime. However, the fourth respondent had alienated portions of the suit item located in the petition mentioned villages. Though the petitioner is a Society registered under the provisions of the Tamil Nadu Societies Registration Act, the properties belonging to the petitioner partake the character of trust. They cannot be parted with at the whims and fancies of any particular person or group of persons. When the highest court of the land had declared that the suit properties including the petition mentioned lands belong to the petitioner Thapovanam, it must be given its fullest effect.

4.Be that as it may, the petitioner only seeks to undertake the work of surveying and fencing the property that has still not been alienated by the fourth respondent. As per roster, I was competent to deal with writ petitions filed under Article 226 of the Constitution of India in respect of criminal matters and petitions filed under Section 482 of Cr.Pc. The Hon'ble Supreme Court in the decision reported in **(2006) 4 SCC 501 (P.R.Muralidharan and ors vs. Swami Dharmananda Theertha Padar and ors)** had held that an order for police protection can be granted only when the court is approached for protection of rights declared by a decree or by an order passed by a civil court and that 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.

5.In the case on hand, not only the civil court has finally declared rights of the petitioner Thapovanam over the petition mentioned property but the same was also confirmed by the Hon'ble Supreme Court. I am not adjudicating any civil right in these proceedings. I am only permitting the petitioner to take the assistance of the police for carrying out the work of surveying and fencing. Respectfully following the ratio laid down in **(2006) 4 SCC 501 (P.R.Muralidharan and ors vs. Swami Dharmananda Theertha Padar and ors)**, the respondents 1 to 3 herein are directed to provide protection to the petitioner to carry out the petition mentioned work of surveying and fencing of the petition mentioned lands. This criminal original petition is allowed. No costs.

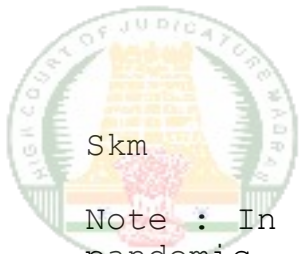
Sd/-

Assistant Registrar(AE)

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Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Superintendent of Police, Theni, Theni District.
- 2.The Deputy Superintendent of Police, Uthamapalayam Division, Uthamapalayam, Theni District.
- 3.The Inspector of Police, Odaipatti Police Station, Odaipatti, Uthamapalayam, Theni District.
- 4.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.V.RAMAKRISHNAN, Advocate (SR-9260[F] dated 01/03/2022)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-9502[F] dated 02/03/2022)

Cr1 OP(MD)No.1226 of 2022

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