



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. (MD) .No.2766 of 2022

and

W.M.P. (MD) .Nos.2471 and 2472 of 2022

M/s.S.D.M.Cot Spin (India) Private Limited,
Represented by its Managing Director,
S.Dharmamoorthy.

... Petitioner

Vs.

1. The Superintendent of Police,
Dindigul,
Dindigul District.

2. The Deputy Superintendent of Police,
Nilakkottai,
Dindigul District.

3. The Inspector of Police,
Nilakkottai Police Station,
Dindigul District .

4.The Coimbatore District Textile Worker's Union,
Represented by its Secretary,
V.M.R.Patty.

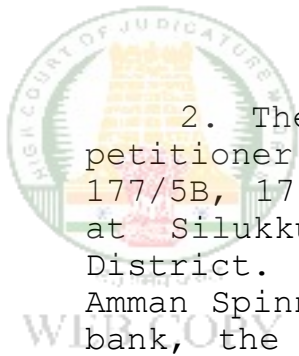
...Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 3 provide adequate police protection to the factory premises of the petitioner company to ensure that there is free ingress and egress of men and materials to the factory premises.

For Petitioner	:	Mr.N.Shanmugaselvam
For R-1 to R-3	:	Mr.B.Thanga Aravindh Government Advocate (Crl. Side)
For R-4	:	Mr.R.Sriram

ORDER

This Writ Petition has been filed to direct the respondents 1 to 3 to provide adequate police protection to the factory premises of the petitioner company to ensure that there is free ingress and egress of men and materials to the factory premises.



2. The learned counsel for the petitioner submitted that the petitioner purchased the property comprised in S.F.Nos.178/1, 179/5, 177/5B, 177/9, 178, 179/2, 180/2, 177/13, 164/2 and 177/5A situated at Silukkuvarpatti Revenue Village, Nilakottai Taluk, Dindigul District. The property originally belonged to one Sri Vakira Kaali Amman Spinning Mills Private Limited and due to their default in the bank, the said property was let out on auction sale by the State Bank of India, Coimbatore. In the auction sale, the petitioner was the highest bidder and the sale was confirmed for the total consideration of Rs.10,49,00,000/- in favour of the petitioner. In fact, the possession of the property has been taken over by the bank on 17.09.2016 itself. Now, there are disputes between the ex-employer and the fourth respondent Union in respect of their salary and other benefits. There is also an industrial dispute pending between the ex-employer and the fourth respondent Union.

3. The learned counsel for the fourth respondent Union submitted that they have no objection to enter into the factory premises. They are only agitating in front of the company for their rights.

4. The learned Government Advocate(Criminal Side) submitted that on the complaint lodged by the petitioner, the petitioner was issued C.S.R.No.53 of 2022 and the enquiry was conducted and the same was closed.

5. However, the learned counsel for the petitioner would submit that because of the obstruction by the members of the fourth respondent Union, the petitioner cannot even enter into the factory premises.

6. It is seen that the right to carry on occupation or trade or business is a fundamental right guaranteed under Article 19(g) of the Constitution of India and at the same time, right to strike work, though a recognised right, is not a fundamental right. Such a right can be exercised only as per the provisions of the industrial laws. It cannot exceed to the extent of preventing ingress and egress of raw materials, finished goods and other activities, attracting penal provisions of the statute.

7. In view of the above, the Writ Petition is disposed of with the following directions:

(i)The third respondent is directed to provide adequate police protection to the factory premises of the petitioner Company to ensure that there is free ingress and egress of men and materials.

(ii)The third respondent shall ensure that no law and order problem is created near the factory premises and normalcy is maintained.



(iii)The fourth respondent can conduct the demonstration/strike, 200 meters away from the petitioner's factory premises.

8. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (As)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

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,
Dindigul,
Dindigul District.
2. The Deputy Superintendent Of Police,
Nilakkottai,
Dindigul District.
3. The Inspector of Police,
Nilakkottai Police Station,
Dindigul District .
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.SHANMUGA SELVAM, Advocate (SR-9871[F] dated 03/03/2022)

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and

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