



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P. (MD)No.6334 of 2020

and

W.M.P. (MD)No.5634 of 2021

Veerappa Gounder

...Petitioner

Vs.

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

2.The Inspector of Police,
Ottanchathram Rural Police Station,
Ottanchathram, Dindigul District.

3.P.Shankar

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus, directing the second respondent to consider the petitioner's representation dated 12.05.2020 and provide adequate police protection to the petitioner to restrain the third respondent for carrying illegal construction.

For Petitioner : Mr.K.K.Samy

For R1 and R2 : Mr.S.Ravi,
Additional Public Prosecutor.

For R3 : Mr.G.Karthick, For Mr.T.Lajapathy Roy

ORDER

This Writ Petition is filed seeking for a direction to the second respondent to consider the petitioner's representation dated 12.05.2020 and provide adequate police protection to him to restrain the third respondent for carrying illegal construction.

2.It is the main contention of the writ petitioner that despite he purchased the property under the Court auction sale and also decree and judgment passed in his favour, he could not have enjoyed the property. The third respondent is none other than the relative of the title holder and obstructing the enjoyment of the property. It is his further contention that execution proceedings is also pending. Taking advantage of the delay in process, the third respondent is attempting to put up a construction in every stage. Therefore, he sought for police protection.



3. Whereas the learned counsel appearing for the third respondent would submit that he is in possession of the property on the basis of their own rights and their predecessor in title had purchased the property in the year 1996 itself and thereafter, there were several transactions and the third respondent has purchased the property in the year 2001, hence, opposed this Writ Petition.

4. From the submissions of the learned counsel on either side, it is seen that the dispute is taking over the possession of the property, which is said to have been purchased under the Court auction sale by the petitioner. The petitioner has already filed execution petition to enforce the decree and judgment in O.S.No.566 of 1990 on the file of the Subordinate Court, Palani and the above petition is pending only for delivery of the property. At this stage, there are obstructions by the third respondent.

5. Having regard to the nature of the dispute, since the decree is also passed and the execution petition is pending, if the petitioner is so advised, he is at liberty to seek relief before the execution Court and any such relief is sought before the execution Court, the concerned learned Subordinate Judge shall order police protection for execution of the decree and judgment as per law.

6. In view of the above, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Myr

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 District, Dindigul.

2. The Inspector of Police,
Ottanchathram Rural Police Station,
Ottanchathram, Dindigul District.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.K.SAMY, Advocate (SR-5518[F] dated 11/02/2022)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-5585[F] dated 11/02/2022)

W.P. (MD)No.6334 of 2020

10.02.2022

_RD(07.03.2022) 3P 6C