



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2022

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THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.10409 of 2020

and

W.M.P(MD)Nos.9220 & 9221 of 2020

Thenmozhi

... Petitioner

-vs-

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

2.The Inspector of Police,
Karambakudi Police Station,
Pudukottai District.

3.V.Mookaiah

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings of the first respondent in Na.Ka.No.2/17864/2020, dated 07.08.2020 and quash the same as illegal and order the respondents 1 & 2 not to interfere in civil dispute.

For Petitioner : Mr.N.Kamesh

For R1 & R2 : Mr.A.Thiruvadikumar
Additional Public Prosecutor

For R3 : Mr.A.K.Hemaraj

O R D E R

This application has been filed to quash the order passed by the first respondent, dated 07.08.2020 granting police protection.

2. The brief facts of the case is that originally the third respondent has filed a petition in CrI.O.P(MD)No.4897 of 2020 before this Court seeking direction to direct the respondents 1 to 3 therein to give adequate police protection to his life and to take necessary steps to protect him against the petitioner and another. This Court,



after recording the submission of the learned Government Advocate (Crl.side) that the investigation in FIR No.70 of 2020 will be conducted in the manner known to law, closed the said application on 19.03.2020. Taking advantage of the said order, the third respondent has given a representation to the Superintendent of Police, Pudukottai citing the order in Crl.O.P(MD)No.4897 of 2020, dated 19.03.2020 stating that the High Court has directed the police to give police protection for the purpose of constructing the compound wall. Based on such representation, the Superintendent of Police has ordered Police protection on 07.08.2020.

3. It is relevant to note that while passing the order, dated 19.03.2020, the petitioner and another not even served with notice. The said order came to be passed at the admission stage itself. Now, on the basis of the representation of the third respondent herein, the first respondent has ordered police protection to construct the compound wall. It is the submission of the learned counsel for the petitioner that already there is a dispute pending between the parties and the civil suit is also pending in O.S.No.22 of 2020, on the file of the District Munsif Court, Alangudi. Now taking advantage of the order passed by the first respondent, the third respondent has constructed the compound wall while pending civil suit. Hence, his contention is that the order of the first respondent granting police protection is to be set aside.

4. The learned counsel appearing for the third respondent would submit that even before filing the civil suit, compound wall was constructed and therefore, the order cannot be set aside.

5. The very submission of the learned counsel for the third respondent that even prior to the filing of the suit, compound wall was constructed, is not accepted for the simple reason that the third respondent after obtaining the orders from this Court he made a representation to the first respondent referring the order of this Court and seeking police protection for putting up a compound wall. That itself shows that the police protection was obtained only in order to put up the construction. But, this Court has not passed any order to give police protection for constructing the compound wall and this Court closed the petition based on the submission made by the learned Government Advocate. The said order has been given different colour for the purpose of construction of compound wall. Therefore, this Court has no hesitation for setting aside the order of the first respondent. The authorities while passing any order on the representation that there is a High Court order, they are bound to look at the order properly.

6. In such view of the matter, the impugned order, dated 07.08.2020 passed by the first respondent is set aside and the writ petition is allowed. The civil Court shall take into consideration of these facts while deciding the suit. The Civil Court shall also



civil suit to defeat the rights of the petitioner, if any, may order demolition of construction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)

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To

- 1.The Superintendent of Police,
Pudukottai,
Pudukottai District.
- 2.The Inspector of Police,
Karambakudi Police Station,
Pudukottai District.
3. The Additional Public Prosecutore,
Madurai Bench of Madras High Court, Madurai.

W.P. (MD) No.10409 of 2020
03.03.2022

RD(16.03.2022) 3P 4C