



WEB COPY

Cr1.O.P(MD)Nos.10650 of 2021 & 15808 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P(MD)Nos.10650 of 2021 & 15808 of 2020

and

W.P(MD)No.19845 of 2021

and

W.M.P(MD)Nos.16545, 16547 & 19190 of 2021

Cr1.O.P(MD)No.10650 of 2021:

M.Noorjahan Begam

... Petitioner

Vs.

1. The Superintendent of Police,
Office of Superintendent of Police,
Madurai District.

2. The Deputy Superintendent of Police,
Melur Town, Madurai District.

3. The Inspector of Police,
Melur Police Station,
Melur, Madurai District.

4. R.Abbas

5. S.Mohammed Suhail

6. S.Abdul Arabaj

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to direct the respondents 1 and 2 to direct third respondent to give necessary protection to the petitioner and her family members for reconstructing the illegally demolished compound wall by considering her representation, dated 15.07.2021, within the period stipulated by this Court and to pass such further or other orders as this Court may deem fit and proper in the above circumstance and thus render justice.

For Petitioner : Mr.A.Haja Mohideen

For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor (Criminal Side)
for R.1 to R.3

Mr. Karthick Raja
for M/s. Ajmal Associates for R.4 to R.6



Cr1.O.P(MD)No.15808 of 2020:

M.Noorjahan Begam

... Petitioner

Vs.

1. The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.
2. The Deputy Superintendent of Police,
Melur Town,
Madurai District.
3. The Inspector of Police,
Melur Police Station,
Melur,
Madurai District.

4. R.Abbas

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to pass order by directing the first respondent to pass order for change of investigation for the complaint of the petitioner dated 20.11.2020 in C.S.R.No.938 of 2020 from the file of the third respondent to some other agency, within the period as stipulated by this Court and to pass such further or other orders as this Court may deem fit and proper in the above circumstance and thus render justice.

For Petitioner : Mr.A.Haja Mohideen

For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor (Criminal Side)
for R.1 to R.3

Mr.Karthik Raja
for M/s. Ajmal Associates for R.4

W.P(MD)No.19845 of 2021:

S.Noorjahan Begam

... Petitioner

Vs

- 1.The Municipal Commissioner,
Melur Municipal Office,
Mill Road,
Madurai - 625 106



2.The Tahsildar,
Melur Taluk Office,
Melur Taluk,
Madurai - 625 106

3.The Town Surveyor,
Melur Taluk Office,
Melur,
Madurai - 625 106

4.The Sub Inspector of Police,
Melur Police Station,
Melur,
Madurai - 625 106

5.R.Abbas

... Respondents

For Petitioner : Mr.A.Haja Mohideen
For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor (Criminal Side)
for R.1 to R.4

Mr.Karthik Raja
for M/s. Ajmal Associates for R.5

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the fourth respondent's Impugned Report in C.No.78/INS/SDO/MLR/2021, dated 22.07.2021 and consequential third respondent's impugned communication, dated 28.12.2020 stating that in the subject property 10 feet Hollow Block (Paver Block) road was laid by the first respondent and there is also Drainage Channel and the sketch there in and quash the same as devoid of merits consequently, directing the fourth respondent to give adequate protection for reconstructing the illegally demolished compound wall in Survey No.306/1B2PT, Block No.14, T.S.No.84 Muniyandi Kovil Street, Mugamathiyapuram, Sivagangai Road, Melur Town, Madurai District by considering the petitioner's representation, dated 15.07.2021 and for other such reliefs within the period stipulated by this Court and pass such further or other orders as this Court may deem fit and proper in the above circumstances of this case and thus render justice.

COMMON ORDER

The petitioner filed Crl.O.P(MD)No.10650 of 2021 seeking police protection to construct the illegally demolished compound wall. In this case, the petitioner lodged the complaint and the same was conduct in detail. Notice was issued to the counter parties by the third respondent herein and closed the complaint for the reason that the subject property does not belong to the petitioner's pathway.



Challenging the said order, the petitioner filed the W.P(MD)No.19845 of 2021. At the same time, she also filed the petition for change of investigation in the respect of the complaint lodged by her dated 20.11.2020.

2. A perusal of the records revealed that the petitioner and the private respondents herein are claiming right over the same property. Therefore, there is a title dispute between the petitioner and the private respondents and they have to ascertain their title before the concerned civil Court. That apart, the complaint lodged by the petitioner was enquired in detail and after the receipt of the report from the Municipality, the third respondent closed the complaint. Therefore, the petitioner ought to have approached the civil Court for appropriate relief. Only after ascertaining the title over the property in her favour, she can very well approach the authorities concerned to seek police protection. Further, before even the registration of FIR, the question of change of investigation does not arise.

3. In view of the above, Crl.O.P(MD)Nos.10650 of 2021 & 15808 of 2020 and W.P(MD)No.19845 of 2021 are dismissed. Consequently, connected miscellaneous petitions are closed. In W.P(MD)No.19845 of 2021, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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,
Office of Superintendent of Police,
Madurai District.

2. The Deputy Superintendent of Police,
Melur Town,
Madurai District.



3. The Inspector of Police,
Melur Police Station,
Melur,
Madurai District.

4. The Municipal Commissioner,
Melur Municipal Office,
Mill Road,
Madurai - 625 106

5. The Tahsildar,
Melur Taluk Office,
Melur Taluk,
Madurai - 625 106

6. The Town Surveyor,
Melur Taluk Office,
Melur,
Madurai - 625 106

7. The Sub Inspector of Police,
Melur Police Station,
Melur,
Madurai - 625 106

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

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-12048[F] dated
15/03/2022)

Cr1.O.P(MD)Nos.10650 of 2021 & 15808 of 2020
and
W.P(MD)No.19845 of 2021
14.03.2022

RD(27.05.2022) 5P 10C