



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.14856 of 2020

WEB COPY

Mayilraj

... Petitioner

vs.

1.The Inspector of Police,
Achanpudur Police Station,
Sencottai Taluk,
Tenkasi District.

2.The Sub Inspector of Police,
Sambavarvadakarai Police Station,
Kadayanallur Taluk,
Tenkasi District.

3.Venkatesh

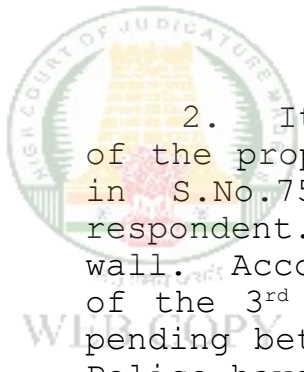
... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, forbearing the 1st respondent from interfering in the civil dispute and harassing the Hindu Nadar Uravinmurai Community people in the matter of civil dispute pending in the Sub Court of Tenkasi, in an east west wall existing between the Beedi Labour Shop in S.No.757/1 and Milk Dairy farm of Yadhava Community people in S.No.757/2 in Sambavarvadakarai Village in Tenkasi District.

For Petitioner	: Mr.F.X.Eugene
For R1 & R2	: Mr.T.Senthil Kumar Additional Public Prosecutor
For R3	: Mr.S.Meenakshi Sundaram, Senior Counsel for Mr.M.Sengu Vijay

ORDER

The writ petition has been filed for issuance of a Writ of Mandamus, forbearing the 1st respondent from interfering in the civil dispute and harassing the Hindu Nadar Uravinmurai Community people in the matter of civil dispute pending in the Sub Court of Tenkasi, in an east west wall existing between the Beedi Labour Shop in S.No.757/1 and Milk Dairy farm of Yadhava Community people in S.No.757/2 in Sambavarvadakarai Village in Tenkasi District.

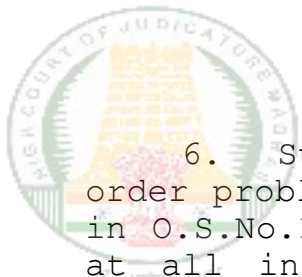


2. It is the case of the petitioner that on the southern side of the property in S.No.757/1, there are small properties comprised in S.No.757/2 of Yadhavar community people including the 3rd respondent. The dispute between two groups is relating to a common wall. According to the petitioner, now the 1st respondent in support of the 3rd respondent group, is interfering with the civil dispute pending between the parties. Therefore, his contention is that the Police have no right to interfere in the civil dispute.

3. Whereas, the learned Senior Counsel appearing for the 3rd respondent would submit that the petitioner's community has filed a suit in O.S.No.19/2008 before the District Munsif Court, Shencottai, seeking declaration that the said wall belongs to them exclusively and for consequential reliefs. The Civil Court by judgment dated 28.06.2013, had dismissed the suit, holding that the wall is a common wall, against which, appeal was also filed with the delay of 2000 days. The delay application has been dismissed, as such, the matter has reached finality. Now, the 3rd respondent has began to put up some construction immediately on the southern side of the said common wall in S.No.757/2, in respect of which, the petitioner has again filed another suit in O.S.No.65 of 2020 before the District Munsif Court, Shencottai, seeking permanent injunction forbearing the 3rd respondent's community from interfering with the possession and enjoyment of the property covered in S.No.757/2. Therefore, the learned Senior Counsel submits that having lost the civil suit, now to get over the judgment and decree passed in O.S.No.19/2008, the petitioner has filed this writ petition.

4. I perused the Commissioner report and plan which clearly show the nature and extent of the property held by both the groups. It is not in dispute that S.No.757/1 is the property belonged to the petitioner's community people and the property in S.No.757/2 is belonged to the 3rd respondent community people. In between the two properties, there appears to have been a common wall which was the subject matter of the suit in O.S.No.19/2008. Perusal of the judgment passed by the trial Court in the above suit shows that at paragraph 9 of the judgment, the trial Court has clearly recorded the admission of PW1 to the effect that M/s.Sri Krishna Dairy Farm was running in the disputed place 40 years ago, in which both community people were participating and based on the said evidence, the suit has been dismissed. Now it appears that the appeal filed with the condone delay petition, has also been dismissed. Therefore, the judgment passed in O.S.No.19/2005 has attained finality.

5. Now, another suit in O.S.No.65/2020 is also filed by the petitioner's community seeking permanent injunction in respect of S.No.757/2, which is not in dispute by both sides. Perusal of the copy of the plaint in O.S.No.65/2020 shows that the same relates to S.No.757/2 which is the southern side of the property of the community people.



6. Such being the matter, when there is a serious law and order problem, deviating the decree and judgment of the Civil Court in O.S.No.19/2008, it cannot be said that the Police have no power at all in all eventualities. Whenever there is an offence reported or any untoward incident which may lead to cognizable offence, the Police will normally step into either to arrest or prevent such incident. Therefore, a blanket order restraining the Police not to interfere in such matters, cannot be granted. The Police can act on the basis of the nature of the incident and seriousness of the consequences etc. Therefore, having regard to the nature of the dispute between the petitioner and the 3rd respondent and the judgment passed in O.S.No.19/2008, this Court is of the view that such a blanket direction sought for by the petitioner, cannot be issued.

7. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (T&P)

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/ /2022

Sub Assistant Registrar(CS)

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To

- 1.The Inspector of Police,
Achanpudur Police Station,
Sencottai Taluk,
Tenkasi District.
- 2.The Sub Inspector of Police,
Sambavarvadakarai Police Station,
Kadayanallur Taluk,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.F.X.EUGENE, Advocate (SR-10025[F] dated 04/03/2022)
+1 CC to M/s.M.SENGU VIJAY, Advocate (SR-10062[F] dated
04/03/2022)

W.P(MD)No.14856 of 2020

DATED : 02.03.2022

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