

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2022

CORAM

THE HONOURABLE Mrs. JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.21376 of 2022

and

W.M.P.(MD)No.15543 of 2022

Ramasamy, S/o.Alagumalai

.. Petitioner

Versus

1.The Tahsildar,
Taluk Office,
Thiruparangundram,
Madurai.

2.The Taluk Surveyor,
Land Survey and Records,
Taluk Office,
Thiruparangundram,
Madurai.

3.A.Marthandavarman

4.Lakshmanan

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to forbear the respondents 1 and 2 and their men from interfering in the petitioner's peaceful possession and enjoyment of property bearing Survey No.403/8, Town Survey No.29/0, Ward No.22, Plot No.22, with an extent of 720 sq.ft. situated at Madakulam, Palanganatham, Madurai.

For Petitioner : Mr.R.Murugappan
For Respondents 1 and 2 : Mr.D.Sadiq Raja
Additional Government Pleader
For 3rd Respondent : Mr.P.Venkatesan

ORDER

The petitioner has filed this Writ Petition seeking to forbear the respondents 1 and 2 and their men from interfering with the petitioner's peaceful possession and enjoyment of property, bearing Survey No.403/8, Town Survey No.29/0, Ward No.22, Plot No.22, measuring an extent of 720 sq.ft. situated at Madakulam, Palanganatham, Madurai.

2.The case of the petitioner is that he is residing at Survey No.403/8, Town Survey No.29/0, Ward No.22, Plot No.40, measuring an extent of 720 sq.ft., situated at Madakulam, Palanganatham, Madurai. Regarding the said land, the petitioner and the fourth respondent have entered into an unregistered oral sale agreement in the year 1990, for purchasing the aforesaid land for Rs.80,000/- and the said amount was already paid to the fourth respondent. However, the fourth respondent had not chosen to execute the sale deed, despite the petitioner's repeated demands. In respect of the said issue, there were complaints lodged against the fourth respondent before the Subramaniapuram Police Station, Madurai, and F.I.R. was also registered against him.

3.The learned counsel for the petitioner submits that the respondents 3 and 4 conspired together and instigated the respondents 1 and 2 to evict the petitioner from the aforesaid place without following due process of law. Admittedly, the aforesaid land is a private property, therefore, the respondents 1 and 2 have no right to evict the petitioner. However, the respondents 1 and 2 under the influence of respondents 3 and 4, came to the aforesaid petitioner's place under the guise of survey and asked the petitioner to vacate the premises. They have also threatened the petitioner that they would evict him by force. The respondents 1 and 2 have no legal, statutory and constitutional obligations to ask the petitioner to vacate the premises, without following due process of law. Therefore, the petitioner seeks indulgence of this Court to forbear the respondents 1 and 2 and their men from interfering with his peaceful possession and enjoyment of the aforesaid property.

4.The learned counsel for the third respondent submits that the third respondent had purchased the property from one Subramaniam, but the petitioner claims that he entered into an unregistered oral sale agreement in the year 1990 with the fourth respondent - Lakshmanan, the power agent of one Sahayaraj and the fourth respondent is not the owner of the property. On 18.08.2022, a notice has been issued by the second respondent to the third

respondent, the petitioner and one Srinivasan with regard to survey of the property on 25.08.2022 at 11.00 am, based on the application submitted by the third respondent. The petitioner was trying to threaten the Surveyor and other officers, who visited the property for measuring the same, hence, the third respondent was constrained to file CrI.O.P.(MD)No.13070 of 2022, seeking to provide adequate police protection at the time of measuring the land in Resurvey No.403/8, measuring an extent of 720 sq.ft., which is situated at Ward No.72, Madakulam Village, Thiruvalluvar Nagar, Madurai. This Court, by order dated 20.07.2022, directed the Police authorities to consider the representation of the third respondent and also to take suitable action on merits and in accordance with law. Based on the said order, the Commissioner of Police, Madurai City, has given direction to the third respondent to pay necessary charges for providing police protection while measuring the property. The learned counsel for the third respondent further submits that the third respondent is the legal owner of the said property, which was purchased by him for a valuable consideration and the petitioner herein is an unauthorized occupant.

5.Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents 1 and 2 and the learned counsel for the third respondent.

6.On going through the averments, this Court is of the view that the petitioner cannot maintain this Writ Petition, as the matter relates to civil dispute and if the petitioner and the third respondent claim right over the same property, it is left open to them to approach the competent civil Court to redress their grievances. Hence, the petitioner is not entitled to the relief sought for. Accordingly, this Writ Petition is dismissed with liberty to the petitioner to approach the competent civil Court. No costs. Consequently, connected Miscellaneous Petition is closed.

7.It is seen that the third respondent has got appropriate orders from the Tahsildar as well as from the Commissioner of Police, Madurai, for providing Police protection while measuring the property. This Court is not inclined to interfere with the said orders of the Tashildar and the Commissioner of Police, Madurai, and they are directed to proceed further in accordance with law.

07.09.2022

Index : Yes/No
smn2
To

1.The Tahsildar,
Taluk Office,
Thiruparangundram,
Madurai.

V.BHAVANI SUBBAROYAN, J.

smn2

2.The Taluk Surveyor,
Land Survey and Records,
Taluk Office,
Thiruparangundram,
Madurai.

Order made in
W.P.(MD)No.21376 of 2022

07.09.2022