



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No. 19969 of 2021

WEB COPY
V.Selvaraj

... Petitioner

Vs.

1.The Commissioner of Police,
Tiruchirappalli.

2.The Inspector of Police,
Srirengam police station,
Tiruchirappalli District.

3. K.Rengarajan

4. Pappathy

5. Prakash

... Respondents

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, directing the second respondent to provide police protection to lay underground sewage connection in the petitioner's house property based on the petitioner's representation dated 23.11.2021.

For Petitioner : Mr.R.S.Sivaram
For R-1 & R-2 : Mr.M.Veeranthiran,
Government Advocate (Crl. Side).
For R-3 to R-5 : Mr.M.Ajith

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for respondents 1 and 2 and the learned counsel appearing for respondents 3 to 5.

2.The petitioner is a resident of South Car Street, Thiruvanaikovil. The petitioner had purchased the property under sale deed dated 28.10.2002. The petitioner's house is located on the backside of the house of the private respondents. The pathway dispute is pending between the two and the case is presently pending on the file of the District Munsif Court, Srirengam in O.S.No.336 of 2019. In the meanwhile, Thiruchirappalli Corporation has implemented the underground drainage scheme. It is well known that the Corporation would lay the pipelines near one's house and it is the duty of the house owner to link his house with the underground drainage scheme by laying necessary connection. On account of the pathway dispute between the petitioner on the one hand and the private respondents on the other, the petitioner has not been able to lay the necessary underground drainage connection. He filed this



criminal original petition for directing the respondent police to grant protection for laying the underground sewage connection.

3. When the matter was taken up for hearing, the learned counsel appearing for the private respondents rightly pointed out that one of the suit prayers was for directing the respondents to allow the petitioner / plaintiff to lay the underground drainage pipelines through the suit 'B' schedule property. Therefore according to him, the petitioner cannot be allowed to pursue parallel remedies. This contention is well founded. Therefore, I directed the petitioner to make a choice.

4. Today when the matter was taken up for hearing, the learned counsel appearing for the petitioner states that the petitioner had already filed a memo before the District Munsif for not pressing the said prayer. Of course, formal amendment is yet to be carried out. But then, in view of the stand taken by the petitioner, there cannot be any impediment for taking up this criminal original petition and giving disposal on merits.

5. When the local body has implemented the underground drainage scheme, a house owner is entitled to avail the benefits thereof. In this case, the petitioner is not a stranger to the private respondents. He is the purchaser of the property from the third respondent under a registered sale deed. Of course, there is a pathway dispute between the petitioner and the private respondents. While the civil Court can decide the pathway dispute, the right of the petitioner to connect his house to the underground drainage pipeline put up by the local body cannot be denied. The connecting pipeline is going to be laid underground. This will not in any way have any bearing over the rights of the respective parties over the suit pathway. Since such an order has been passed in the presence of the counsel for the private respondents, I am certain that the private respondents herein will not object to the petitioner to carry out the work in question. The petitioner should of course finish the work at the earliest. In the event of the private respondents raising any objection, the second respondent shall extend necessary protection based on the request of the petitioner herein.

6. This criminal original petition is allowed on these terms.

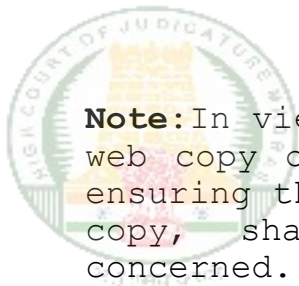
Sd/-

Assistant Registrar (T & P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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.

WEB COPY

To:

- 1.The Commissioner of Police,
Tiruchirappalli.
- 2.The Inspector of Police,
Srirengam police station,
Tiruchirappalli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**Crl.O.P. (MD) No.19969 of 2021
24.01.2022**

RS (01.03.2022) 3P-4C