



W.P.No.27712 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.27712 of 2023

Palanisamy

... Petitioner

Vs.

1. The State Rep. by its
The Inspector of Police,
Vazhapadi Police Station,
Salem District.

2. Valliammal

3. Perumal

... Respondents

PRAYER : Writ Petition filed under Article 226 of constitution of India to issue a Writ of Mandamus directing the 1st respondent to give necessary police protection to the petitioner for fencing and surveying the petitioner's agriculture land in Survey No.20/2G in Patta No.877 an extent of 68 cents (eastern portion) out of 1 acre 36 cents situated at Thukkiyampalayam Village, Vazhapadi Taluk, Salem District based on the petitioner's representation dated 25.08.2023 within the time frame fixed by this Court.



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For Petitioner : Mr.S.Varanesh

For Respondents : Mr.A.Gopinath
Additional Public Prosecutor

ORDER

This writ petition has been filed for a direction to the 1st respondent to provide police protection to the petitioner in order to enable the petitioner to survey the subject property and to fence the property, by considering the representation made by the petitioner on 25.08.2023.

2. Heard the learned counsel for the petitioner and the learned counsel for 1st respondent.

3. The learned Government Advocate on instructions submitted that the representation / complaint given by the petitioner was enquired in CSR No.538 of 2023 and it was closed on 02.09.2023 based on the undertaking given by the petitioner that he will work out his remedy before the competent Civil Court.

4. It is seen from records that there was a dispute with respect



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to the subject property between the vendor of the petitioner viz., Vijayakumar and the respondents 2 and 3. In view of the same, the vendor of the petitioner filed a suit in OS No.1267 of 2012, seeking for the relief of declaration and permanent injunction before the Principal District Munsif, Salem. This suit was contested by the respondents 2 and 3 and the suit was decreed insofar as the relief of declaration is concerned and was dismissed insofar as the relief of permanent injunction is concerned by judgement and decree dated 19.01.2015.

5. Aggrieved by the judgement passed by the Trial Court, the respondents 2 and 3 filed an appeal in A.S.No.34 of 2015, before the Principal Subordinate Judge, Salem. The vendor of the petitioner also filed a cross appeal in Cross Appeal No.46 of 2015 insofar as the denial of relief of permanent injunction. Both these appeals were taken up for consideration and the Appellate Court by judgement and decree dated 26.08.2015, allowed the cross appeal filed by the vendor of the petitioner and dismissed the appeal filed by the respondents 2 and 3. Aggrieved by the above judgement and decree passed by the Appellate Court, the respondents 2 and 3 filed a second appeal before this Court in SA Nos.720



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and 721 of 2016. Both the second appeals were dismissed by this Court by judgement dated 27.07.2020. Thus, the decree that was passed in favour of the vendor of the petitioner granting the relief of declaration and permanent injunction became final.

6. The petitioner purchased the property from the above said Vijayakumar through a registered sale deed dated 27.05.2022, registered as document No.2799 of 2022. The property in question is an agricultural land. After the purchase of the property, the patta was also transferred in the name of the petitioner in Patta No.877. The petitioner wanted to survey the property and during this process, the respondents 2 and 3 seem to have caused obstruction. Hence, the petitioner gave a complaint before the 1st respondent and the 1st respondent has closed the complaint on the ground that the petitioner must approach the Civil Court.

7. In the considered view of this Court, there is no necessity for the petitioner to once again approach the Civil Court. The decree of the Civil Court has already become final in favour of the vendor of the petitioner and the said relief will also enure in favour of the petitioner . In



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a case of this nature, the necessity to provide for police protection was discussed by this Court in ***[Radhika Sri hari and another Vs. The Commissioner of Police and others]*** in ***2014 2 CTC 695***. This Court took note of the relevant Government orders and held that once the decree passed by the Civil Court has become final, the police protection must be granted. This judgement will squarely apply to the facts of the present case.

8. In the light of the above discussion, there shall be a direction to the petitioner to give a fresh representation to the 1st respondent and the 1st respondent on receipt of the same, shall call the respondents 2 and 3 and direct them not to interfere with the possession and enjoyment of the property. If inspite of such instructions, the respondents 2 and 3 continue to exert threat or disturb the possession of the petitioner, action shall be initiated against the respondents 2 and 3 in accordance with law and necessary police protection shall also be given to enable the petitioner to fence the property.



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9. This writ petition is disposed of in the above terms. No costs.

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Index : Yes/No
Internet : Yes/No
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To

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The Inspector of Police,
Vazhapadi Police Station,
Salem District.
2. The Public Prosecutor, High Court, Madras.



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