



W.P.(MD)No.9403 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2023

CORAM

THE HONOURABLE **DR.JUSTICE D.NAGARJUN**

W.P.(MD)No.9403 of 2023

and

W.M.P.(MD)No.8403 of 2023

1.T.Perumal

2.T.Shankar

3.T.Ravichandran

4.M.Shanthi

... Petitioners

Vs

1.The Superintendent of Police,
Madurai District.

2.The Deputy Superintendent of Police,
Thirumangalam, Madurai District.

3.The Inspector of Police,
Thirumangalam Town Police Station,
Thirumangalam, Madurai District.

4.The Sub Inspector of Police,
Austinpatti Police Station,
Thirupparankundram Taluk, Madurai District.

5.Lakshmi Latha

6.Gundumani

7.Karthikeyan

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the 5th respondent holding the office of the 3rd respondent from interfering in the right of title and possession of the petitioners over the subject properties and consequentially directing the respondents 1 to 4 to give adequate police protection to the petitioners to cut and remove the seema karuvelam trees and to fence the subject properties in Survey Nos.18/6, 20/25, 20/27, 44/2 and 45/3A in Chettikulam Village, Thirumangalam Taluk, Madurai District.

For Petitioners : Mr.J.Barathan
For R1 to R4 : Mr.SS.Madhavan,
Government Advocate (Crl.Side)
For R6 & R7 : Mr.R.Sundar

ORDER

This petition is filed to forbear the 5th respondent holding the office of the 3rd respondent from interfering in the right of title and possession of the petitioners over the subject properties and to direct the respondents 1 to 4 to give adequate police protection to the petitioners to cut and remove the seema karuvelam trees and to fence the subject properties in Survey Nos.18/6, 20/25, 20/27, 44/2 and 45/3A in Chettikulam Village, Thirumangalam Taluk, Madurai District.



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2.It is submitted by the learned counsel for the petitioners that the father of the petitioners by name Thangaraj and his cousin brother by name Perumal are the absolute owners of the properties in question. Since the respondents 6 and 7 and their mother by name Perumalakkal interfered with the possession and enjoyment of the father of the petitioners in respect of the properties in question, the father of the petitioners filed O.S.No.420 of 2005 on the file of the District Munsif Court, Thirumangalam, seeking for declaration of title and permanent injunction, restraining the respondents 6 and 7 and their mother from interfering with his peaceful possession and enjoyment of the properties in questions. The respondents 6 and 7 and their mother also filed O.S.No.462 of 2005 on the file of the District Munsif Court, Thirumangalam seeking for specific performance. Both the suits were tried together and a common judgment and decree were passed on 20.11.2008, decreeing the suit filed by the respondents 6 and 7 and their mother and dismissing the suit filed by the father of the petitioners.

3. Challenging the same, the father of the petitioners filed A.S.Nos.36 & 37 of 2009 on the file of the 2nd Additional Subordinate Court,



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Madurai and both the appeals were heard together and both of them were allowed on 30.06.2010 by way of common judgment in favour of the father of the petitioners.

4.It is further submitted that challenging the same, the respondents 6 and 7 and their mother filed S.A.(MD)Nos.944 and 945 of 2010 before this Court. During the pendency of the appeals, the mother of the respondents 6 and 7 and the father of the petitioners passed away. Therefore, their legal heirs were brought on record and the appeals were tried together and both were dismissed by way of common judgment dated 23.09.2022. Challenging the same, the respondents 6 and 7 filed two Special Leave Petitions before the Hon'ble Supreme Court of India in S.L.P.(Civil) Nos.266 and 267 of 2023 and the same were also dismissed on 13.01.2023.

5.It is further submitted that even after reaching the finality of the decree passed in favour of the petitioners, on 27.03.2023, when the petitioners were cutting down the seemai karuvelam trees in the properties in question, the 4th respondent asked the petitioners to stop cutting the trees, since the respondents 6 and 7 lodged a complaint to the 4th respondent. Therefore, the petitioners appeared before the 4th respondent and during the course of enquiry,



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the 4th respondent has shown the copy of the decrees passed by the Court and the respondents 6 and 7 have also produced e-Court diary extract from the Website of the Hon'ble Supreme Court to show that a review petition filed for reviewing the order dated 13.01.2023 made in S.L.P.(Civil)Nos.266 and 267 of 2023 and the same is not yet numbered, thereby, sought for suitable directions.

6.The learned counsel for the respondents 6 and 7 submitted that his Senior Counsel would appear for the respondents 6 and 7. Therefore, the matter was adjourned two times. However, the respondents failed to submit any arguments and no documents are filed to show that the review petition has been admitted and has been taken up for hearing.

7. It is the case of the petitioners that they have been in possession and enjoyment of the properties in question and accordingly, they have got the decree in their favour in all the Courts. Once and for all, possession of the petitioners has been confirmed by all the Courts including the Hon'ble Supreme Court of India, in favour of the petitioner, the respondent Police cannot frustrate the decrees passed by this Court and also the Hon'ble Supreme Court of India. However, it is submitted by the learned counsel for the petitioners



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that the respondent Police, instead of giving protection to the petitioners, have been directing the petitioners orally not to interfere in the properties in question on the basis of the complaint given by the respondents 6 and 7.

8.As per the circular issued by the Commissioner of Police, Chennai Sub-Urban in C.No.43/CRB/CSP/2008 dated 08.12.2008, the Police have to give protection to the persons, who have got the decree in their favour from the competent Civil Court. In the case on hand, the petitioners have got a decree in their favour against the respondents 6 and 7.

9.In view of the discussions made above, the respondent Police are required to give police protection to the petitioners as long as orders passed by this Court and the Hon'ble Supreme Court in their favour. In case if the review filed by the respondents 6 and 7 is admitted and the orders passed in S.L.P.(Civil)Nos.266 and 267 of 2023 are reversed, then the petitioners are not entitled for any relief. Until then, the respondent Police are directed to provide Police protection as and when required to the petitioners by following the circular of Commissioner of Police, Chennai.



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10. With these observations and directions, this Writ Petition is allowed. Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Yuva/mvs.

To

1. The Superintendent of Police,
Madurai District.
2. The Deputy Superintendent of Police,
Thirumangalam, Madurai District.
3. The Inspector of Police,
Thirumangalam Town Police Station,
Thirumangalam, Madurai District.
4. The Sub Inspector of Police,
Austinpatti Police Station,
Thirupparankundram Taluk, Madurai District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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