



*W.P.(MD)No.12219 of 2023*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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**Dated : 19.09.2023**

CORAM

**THE HON'BLE DR.JUSTICE D.NAGARJUN**

**W.P.(MD)No.12219 of 2023**

N.M.G.Asan Abdul Kader

... Petitioner

Vs.

1. The Superintendent of Police,  
Ramanathapuram.

2. The Inspector of Police,  
Ervadi Police Station,  
Ramanathapuram District.

3.Rubeela

4.Pullani

... Respondents

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 and 2 to provide adequate police protection for the petitioner's peaceful possession and enjoyment of landed property situated in Ramanathapuram District, Ervadi Village, Punjai S.F.No.218/1 with total extent of Acre 2.70 in furtherance of judgment and decree in O.S.No.8 of 1995 dated 25.04.2008 DMC Muthukulathur, based on the petitioner's



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representation dated 06.05.2023.

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For Petitioner : Mr.R.S.Sivaram

For Respondents : Mr.B.Thanga Aravindh  
Government Advocate (Crl. Side)

### **ORDER**

This petition is filed seeking a direction to the respondents 1 and 2 police to provide adequate police protection for the peaceful possession and enjoyment of the property situated at S.F.No.218/1, Ervadi Village, admeasuring to an extent of 2.70 Acres in Ramanathapuram District, in furtherance of judgment and decree in O.S.No.8 of 1995 dated 25.04.2008 based on the representation of the petitioner dated 06.05.2023.

2. As per the affidavit enclosed in this petition, the immovable property to an extent of 2 acres and 70 cents in S.F.No.218/1 at Ervadi Village was purchased by the petitioner's father by name Late.N.M.Kani vide registered sale deed No.715 of 1968 dated 23.05.1968 and since then the petitioner's father has been in possession and enjoyment of the



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property. After his death, the petitioner and his family members have been in possession and enjoyment of the same. All the revenue records are in the name of the petitioner were mutated and patta No.1791 was also granted in his favour. It is also submitted that there is a dilapidated house in the landed property.

3. The mother of the third respondent has filed a suit for partition against the petitioner's father and his vendor Abbas on the file of the District Munsif Court, Mudhukulathur in O.S.No.8 of 1995 claiming 80 cents of the land in the above said property. On account of the death of the petitioner's father during the pendency of the suit, the petitioner and other legal heirs of his father were impleaded in the suit. After full-fledged trial, the said suit was dismissed vide judgment dated 25.04.2008 confirming the title of the petitioner over the said property.

4. On 21.05.2023, when the petitioner was cleaning the property purchased by his father by removing bushes, the third respondent along with the legal heirs of the fourth respondent quarreled with the petitioner's workman. The petitioner has filed a complaint to police who



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have reached the said land and informed the police that the unofficial respondents are interfering without any right. The petitioner has filed a written complaint before the first respondent police which was registered in C.S.R.No.114 of 2023. As per G.O.Ms.No.1580 Home (POL.VIII) Department dated 24.11.2008, the respondents police required to provide police protection. However, since the respondents police have not been responding, the directions are sought for.

5. Notice given to the unofficial respondents. Though they appeared before the Court, no counter is filed.

6. Heard learned counsel for the petitioner as well as the learned counsel appearing for the respondents 3 and 4 and perused the record.

7. The Government has issued G.O.Ms.No.1580 dated 24.11.2008 wherein in Annexure-2, guidelines were given to the police officers to be followed while dealing with the disputes relating to land and money matters. He has further submitted that the respondents police will follow the directions of this Court and provide protection in case it is necessary



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as per G.O.Ms.No.1580 dated 24.11.2008.

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8. As per the submissions made by learned counsel for the petitioner, the petitioner and his family members are the owners of the property situated in S.F.No.218/1 at Ervadi Village and that there is also no record the unofficial respondents have no interest or possession or title over the said property. The petitioner sought for providing police protection. In case if the police direction is not granted, the unofficial respondents may likely to interfere with the possession of the petitioners and to prevent the petitioners from enjoying the same which amounts to infringing the rights of the petitioner and also amounts to trespassing into the property belonging to the petitioners.

9. Learned counsel for the respondents submits that the petitioner has suppressed the fact that the mother of the third respondent has filed an application before the appellate Court for restoring A.S.No.1 of 2009 along with an application to condone the delay and the same is pending. It is also further submitted that with the help of the police, the petitioner is trying to dispossessing the third respondent from the possession and



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enjoyment of 70 cents of land. Merely because the mother of the third respondent has filed an application for restoring A.S.No.1 of 2009 which was dismissed for default does not automatically create any right in favour of the third respondent against the petitioner. The civil Court has dismissed O.S.No.8 of 1995 by holding that mother of third respondent has no right in the land in S.F.No.218/1 at Ervadi Village. Therefore, non mentioning of pendency of I.A. will not in any way affects the rights of the third respondent.

10. Learned counsel for the petitioner submits that the petitioner has been in possession in the entire property including 70 cents which is being claimed by the third respondent and patta was also granted in their favour and land revenue is being paid by them and they are in a possession and that the third respondent is not in a possession of the said property.

11. This Court has no record as to who is in possession of the property and that this Court cannot also embark upon enquiry as to who is in possession of the property. This petition is filed for a simple



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direction to provide police protection. Considering the submissions on both sides and on a perusal of the record, this petition is disposed of directing the respondents police to consider the representation of the petitioner dated 06.05.2023 on the strength of the civil Court decree and if satisfied that the petitioner is in possession of the property. No costs.

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

1. The Superintendent of Police,  
Ramanathapuram.
2. The Inspector of Police,  
Ervadi Police Station,  
Ramanathapuram District.
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**DR.D.NAGARJUN,J**

PKN

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Today this matter is listed under the caption "for being mentioned" at the instance of learned counsel for the petitioner.

2. Learned counsel for the petitioner would submit that in the order copy, dated 19.09.2023, passed in W.P.(MD).No.12219 of 2023, in paragraph No.3, it was inadvertently mentioned as 80 cents instead of 70 cents. Similarly, in paragraph No.11, this Court directed the respondents police to consider the representation of the petitioner instead of the first respondent police. He also made a fervent plea to consider and dispose of the representation dated 06.05.2023 within a stipulated time frame. Thereby, paragraph Nos.2 and 11 read as under:-

*"The mother of the third respondent has filed a suit for partition against the petitioner's father and his vendor Abbas on the file of the District Munsif Court, Mudhukulathur in O.S.No.8 of 1995 claiming 80 cents of the land in the above said property. On account of the death of the petitioner's father during the pendency of the suit, the petitioner and other legal heirs of his father were impleaded in the suit. After full-fledged trial, the said suit was dismissed vide*



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*judgment dated 25.04.2008 confirming the title of the petitioner over the said property.*

*11. This Court has no record as to who is in possession of the property and that this Court cannot also embark upon enquiry as to who is in possession of the property. This petition is filed for a simple direction to provide police protection. Considering the submissions on both sides and on a perusal of the record, this petition is disposed of directing the first respondent police to consider the representation of the petitioner dated 06.05.2023 on the strength of the civil Court decree and if satisfied that the petitioner is in possession of the property by following the guidelines issued vide proceedings in G.O.Ms.No.1580 Home (POL.VIII) Department dated 24.11.2008, as quickly as possible not later than four weeks from the date of receipt of a copy of this order. No costs."*

3. Registry is directed to carry out the above said corrections and issue fresh order copy to the parties concerned forthwith.

**27.09.2023**

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**DR.D.NAGARJUN,J.**

PKN

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