



W.P.(MD)No.14103 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGOVAN

W.P. (MD) No.14103 of 2023

P.Suruli Andavar

...Petitioner

Vs.

1. The Superintendent of Police
Theni District,
Theni.
2. The Deputy Superintendent of Police,
Theni Police Station (Circle),
Theni District.
3. The Inspector of Police,
Palanichettypatti Police Station,
Theni District.
4. Murugesan
S/o. Sannasi,
Kodangipatti,
Palanichettypatti.
Theni District.

.....Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus directing the respondents 2 & 3 herein to consider the representation dated 06.06.2023 and to provide adequate police protection, while fencing



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the property in Survey No.459/2 to the extent of 3 acres and 67 Cents at Kodangipatti Village, Bodinayakanor, Theni District within the time limit stipulated by this Court.

For Petitioner : Mr.M.Jegadeeshpandian

For R1 to R3 : Mr.M.Sakthi Kumar
Government Advocate

For R4 : Mr.K.N.Guru

ORDER

This Writ Petition was disposed of by this Court making the following order:

“This writ petition has been filed seeking issuance of Writ of Mandamus, directing the respondents No.2 & 3 herein to consider the petitioner's representation dated 06.06.2023 and to provide adequate police protection, while fencing the property in Survey o. 459/2 to the extent of 3 acres and 67 cents at Kodangipatti Village, Bodinayakanor, Theni District, within the time limit stipulated by this Court.

2.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondents 1 to 3. The fourth respondent was served with notice.



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But failed to appear. His name was also printed in the cause list.

3.The learned counsel for the petitioner would submit that the petitioner along with A.Jabith, S/o Alavudeen, purchased the property from one Sahul Hameed, S/o Mohamed Sulthan and Sarammal D/o Mohamed Sulthan, who are the legal heir of Asia Mariyam, through a registered sale deed, dated 23.05.2023. Before that land acquisition proceedings have been initiated by the Special Tahsildar, Land Acquisition, Adi Dravidar Welfare, Periyakulam. That was challenged by the Asia Mariyam, by filing W.P.No.5424 of 1994 before the Principal Seat of this Court, which was allowed on 28.07.2000, by which, the entire proceedings has been quashed. Against which, writ appeal in W.A.No.729 of 2009 has been filed before the Division Bench of this Court and the same was dismissed on 18.06.2009. Subsequent to that Government has also passed an order in G.O.(P).No.355, dated 28.08.2012, stating that in pursuance of the order passed by this Court in W.P.No.5424 of 1994, cancelled the acquisition proceedings and restored the possession of the land owner and also directed the Revenue Authorities to make necessary entries by incorporating the name of the land owner in the Revenue Records. Consequently, Patta was mutated in favour of the vendor of the petitioner.

4.The learned Additional Public Prosecutor fairly admits that



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there is no title issue between the petitioner and the private respondent, since the land acquisition proceedings already cancelled by way of the order of this court as well as Government. So the third party cannot claim any right over the property. To ascertain the present position only, notice was ordered to the fourth respondent. But, he failed to appear either in person or through counsel.

5.In view of the above said factual circumstances, let the representation given by the petitioner be enquired and dispose of by the respondent police, within a period of fifteen days from the date of receipt of a copy of this order, by summoning both the parties”

2. After passing the abovesaid order, a mentioning was made by Mr.K.N.Guru, learned counsel appearing for the 4th respondent before this Court that the 4th respondent was dead on the date of passing of the order. Now on the basis of the order passed by this Court, the petitioner is trying to take forcible possession of the property. On that ground, the matter was listed for clarification.

3. A perusal of records would show that notice was issued to



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the 4th respondent on 16.06.2023 and again fresh notice was issued on 28.06.2023 and it was posted on 29.11.2023 and at that time the Registry received returned notice with postal endorsement that "addressee left". So the name of the 4th respondent was directed to be printed in the cause list. After printing the name of the 4th respondent, the order was passed.

4. In view of the factual mistake, the order dated 12.12.2023 has become unenforceable and the same is recalled.

5. Today, when the matter is taken up for hearing, the learned counsel for the petitioner submits that after the death of the 4th respondent, trouble was made by the family members of the 4th respondent.

6. Considering the abovesaid submission of the learned counsel for the petitioner, liberty is given to the petitioner to workout his remedy before the appropriate forum.



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7. Granting such liberty, this Writ Petition is disposed of. No costs.

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Index : Yes / No
NCC : Yes / No
CM

To,

1. The Superintendent of Police
Theni District,
Theni.
2. The Deputy Superintendent of Police,
Theni Police Station (Circle),
Theni District.
3. The Inspector of Police,
Palanichettypatti Police Station,
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G. ILANGO VAN, J.

CM

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