



WEB COPY



W.P.No.1230 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.1230 of 2024

Mahadevasamy

... Petitioner

versus

1.The Tahsildar,
Office of the Tahsildar,
Thalavadi Taluk,
Erode District.

2.The Inspector of Police,
Thalavadi Police Station,
Erode District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, directing the first respondent to survey the land in S.F.No.566/3A to an extent of 1 Acre situated in Thiginarai Village, Thalavadi Taluk, Erode District by providing the police protection by the second respondent and to consider the petitioner's representation dated 14.07.2023, within a time stipulated by this Court.

For Petitioner : Mr.M.Dinesh

For Respondents : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader for R1

Pg.Nos.1/7



WEB COPY



W.P.No.1230 of 2024

Mr.N.Muthuvel
Government Advocate (Crl.Side) for R2

ORDER

Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader accepts notice for the first respondent and Mr.N.Muthuvel, learned Government Advocate (Crl.Side) accepts notice for the second respondent. With the consent of both the parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed seeking for issuance of a writ of mandamus, directing the first respondent to consider the representation of the petitioner dated 14.07.2023, wherein and whereby, he sought to survey the land in S.F.No.566/3A, measuring an extent of 1 Acre, situated in Thiginarai Village, Thalavadi Taluk, Erode District, by providing police protection by the second respondent.

3. The case of the petitioner is that he purchased the subject property for a valuable consideration on 03.10.2020 vide registered Sale Deed in



W.P.No.1230 of 2024

Doc.No.872/2020 on the file of the SRO, Thalavadi Taluk, Erode District.

Ever since he is in absolute possession and enjoyment of the said property.

However, the adjacent owner one Santhamma and her relatives disturbed the peaceful possession and enjoyment of the petitioner's property and also they trespassed into the petitioner's property and damaged the existing fencing. Hence, the petitioner lodged a complaint to the second respondent on 14.07.2023, but there was no response from the respondents. Thereafter, the petitioner paid the requisite fees through e-challan on 01.08.2023 to the authority concerned for fencing the property and the first respondent and his officials came to the subject property for fixing boundary stones and fencing the property, but the said Santhamma and her henchmen had given trouble and not permitted them to discharge their official duties. Hence, the second respondent's presence is warranted for proper adjudication. It is the statutory duty of the respondents to fix the boundaries in the petitioner's property and provide police protection. Since there was no response from the respondents till date, the present writ petition has been filed.

4. Heard both sides and perused the materials available on record.

Pg.Nos.3/7



W.P.No.1230 of 2024

5. It is seen that in the affidavit filed in support of this writ petition the petitioner himself admitted that he purchased the subject property on 03.10.2020 and since then, he is in possession and enjoyment of the said property and the said Santhamma and her relatives trespassed into the property and damaged the existing fencing. Since it is a civil dispute between the parties, the petitioner has to approach the Civil Court and file a suit either for declaration or injunction or bare injunction. In case the said Santhamma and her relatives trespassed into the petitioner's land and removed the fencing, he has to give complaint to the police, and if they failed to register the case, he has to approach the superior authority, Even if they failed to do so, he has to file a private complaint before the learned Magistrate. Instead of doing so, he has filed the present petition seeking the presence of the second respondent. Further, the petitioner has not impleaded the said Santhamma or her relatives as one of the parties in the present writ petition.

6. The question as to whether the petitioner has taken possession of the subject property on 03.10.2020 and he is in possession of the said



W.P.No.1230 of 2024

property, the said Santhamma and her relatives trespassed into his property and if any third parties have encroached the property are all matters to be decided on evidence. The Writ Court cannot conduct a roving enquiry on the factual aspects and the competent Court is the Civil Court to decide the matter. Therefore, this Court is not inclined to entertain the writ petition. Since the petitioner has got an efficacious alternative remedy before the Competent Civil Court or Criminal Court, this Court cannot give any positive direction to the respondents.

7. In view of the above, this Writ Petition is dismissed. However, the petitioner is at liberty to work out his remedy in the manner known to law. There shall be no order as to costs.

22.01.2024

Index: Yes/No
Speaking Order : Yes / No
Neutral Citation Case : Yes/No
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WEB COPY



W.P.No.1230 of 2024

To

- 1.The Tahsildar,
Office of the Tahsildar,
Thalavadi Taluk,
Erode District.
- 2.The Inspector of Police,
Thalavadi Police Station,
Erode District.

Pg.Nos.6/7



WEB COPY



W.P.No.1230 of 2024

P.VELMURUGAN, J.

ms

W.P.No.1230 of 2024

22.01.2024

Pg.Nos.7/7