



W.P.(MD)No.13755 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.13755 of 2022

M.Shiek Alaudeen

... Petitioner

Vs.

1.The Superintendent of Police,
Dindigul District, Dindigul.

2.The Inspector of Police,
Palani Taluk Police Station,
Palani, Dindigul District.

3.The Tahsildhar,
Palani, Dindigul District.

4.Sekar

5.Thannasi

6.Rajangam

7.Ramu

8.Raghu

9.Chinnathami

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the respondents 1 and 2 herein to provide necessary police protection for carrying construction work of compound wall at



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the petitioner's Waqf property in Old S.No.53/1, New S.No.867/3 situated at Balasamudram Village, Palani Taluk, Dindigul District.

For Petitioner : Mr.J.Senthilkumaraiah

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor for R1 to R3

M/s.A.Arul Jenifer for R4 to R9

ORDER

The Writ Petition has been filed to direct the respondents 1 and 2 herein to provide necessary police protection for carrying construction work of compound wall at the petitioner's Waqf property in Old S.No.53/1, New S.No. 867/3 situated at Balasamudram Village, Palani Taluk, Dindigul District.

2.The case of the petitioner is that the petitioner is a Mutawalli of Balasamudram Mosque @ Gani Beebi Dargha Mosque, Balasamudram, which is a notified Waqf under Section 6 of the Waqf Act, 1995. The said Mosque owned a property in New S.No.867/3 (Old S.No.53/1) at Balasamudram Village measuring to an extent of 5 acres and 37 cents. The said property had been surveyed and gazetted by the Tamil Nadu Waqf Board as per the provision of Waqf Act. The said property is notified as a burial ground for the purpose of



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burying the dead bodies of Muslim community people only and not for any other purposes. It is the further case of the petitioner that the dead bodies of the mosque members carried through Kottai Kaliamman street and Mandukkla street to reach the burial ground. Whenever the dead bodies are carried through the public street which is adjacent to the Waqf property, the rival people prevented them from taking dead bodies through the said public street. So, the Secretary of the Waqf filed a writ petition in W.P.(MD)No.5202 of 2008 before this Court and the same was allowed on 14.07.2005 by observing that the Waqf members are entitled to take their dead bodies through the said street and also directing the authorities to ensure public order. Thereafter, the petitioner had taken steps to construct a compound wall to the burial ground and at that time, the rival people caused unnecessary problem and hindered the petitioner and other members in constructing the compound wall. Thereby, the petitioner made a complaint before the second respondent as against the rival parties and the second respondent registered a CSR number and thereafter, the petitioner filed an application in O.A.No.142 of 2020 before the Tamil Nadu Waqf Tribunal at Chennai and sought relief of permanent injunction restraining the private respondents not to interfere in peaceful possession and enjoyment of the property and also sought to proceed with the construction of compound wall. While the application was pending, the private respondents trespassed into the



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Waqf property with JCB and removed the Seemakaruvelam trees, for which, the respondent police registered an FIR in Crime No.574 of 2021 against the private respondents. In the meanwhile, on 12.05.2022, the Tribunal allowed the petitioner's application and passed a decree by restraining the private respondents not to interfere in peaceful possession and enjoyment of the property and also restrained the private respondents not to disturb the construction of compound wall at the said property. After obtaining decree, the petitioner has given a representation to the respondents police to provide necessary police protection on 24.05.2022 for construction of compound wall and the same was not considered till date. Hence, the petitioner has filed the present petition before this Court.

3.The learned counsel for the petitioner would submit that the petitioner has already obtained an injunction from the Waqf Tribunal in O.A.No.142 of 2020, even though the private respondents prevented the petitioner from constructing the compound wall. Hence, this Court may issue a direction to the official respondents to provide police protection to the petitioner for construction of compound wall.



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4.The learned counsel appearing for the respondents 4 to 9 would submit that it is purely a civil dispute and after obtaining an ex-parte decree, they preferred an appeal and if the petitioner is having any grievance, the petitioner may approach the Tribunal instead of approaching the respondent police for police protection, which is not a sustainable one.

5.The learned Additional Public Prosecutor for the respondents 1 to 3 would submit that since the petitioner has already obtained an ex-parte interim injunction and the same was agitated by the respondents and even then, if any Waqf Tribunal report, the petitioner has remedy only before the civil Court either by execution proceedings or by any application and if there is any direction from the Waqf Tribunal, the petitioner is ready to abide by any condition.

6.Though there is a civil dispute between the petitioner and the private respondents and the petitioner has already obtained interim order from the Waqf Tribunal, if it is so, liberty is granted to the petitioner to file appropriate application before the Waqf Tribunal for necessary police protection.



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7. With the above directions, the writ petition is closed. No costs.

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

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Dindigul District, Dindigul.
2. The Inspector of Police,
Palani Taluk Police Station,
Palani, Dindigul District.
3. The Tahsildhar,
Palani, Dindigul District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

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