



WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 03.09.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN  
AND  
THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN**

**W.A(MD)No.1641 of 2018**

Sandhanadurai

... Appellant/Respondent-5

.Vs.

1.M.Justin Prakash

....Respondent No.1/Petitioner

2.The Tahsildar,  
Taluk Office,  
Kodaikanal,  
Dindigul District.

3.The Superintendent of Police,  
Dindigul.

4.The Deputy Superintendent of Police,  
Kodaikanal,  
Dindigul District.

5.The Inspector of Police,  
Kodaikanal Town Police Station,  
Dindigul District.

... Respondents 1 to 4 /  
Respondents 1 to 4

**PRAYER:** Writ Appeal filed under Clause 15 of Letters Patent Act praying this



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Court to set aside the order of this Court made in W.P(MD)No.19196 of 2018, dated 5.9.2018.

|                           |                                                |
|---------------------------|------------------------------------------------|
| For Appellant             | : Mr.S.Louis                                   |
| For Respondent-1          | :Mr.Rajakarthikeyan<br>for Mr.B.Chakkaravarthi |
| For Respondents<br>2 to 5 | : Mr.D.Sachikumar<br>Addl.Govt. Pleader        |

### **JUDGMENT**

(Order of the Court was made by **P.VELMURUGAN.,J**)

This Writ Appeal is directed against the order of this Court made in W.P(MD)No.19196 of 2018, dated 5.9.2018.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.Challenging the order of Writ Court, the fifth respondent has filed the Writ Appeal. The Writ Petition was filed by the first respondent herein for issuance of a Mandamus to direct the respondents 2 to 4 therein to provide



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police protection to the Petitioner and his family for their life and to construct a compound wall in his patta land at T.S.No.9/2, Ward-B, Block-10, in Kodaikanal Town, Dindigul District based on the report submitted by the first respondent in Na.Ka.No.3255/2018/S, dated 31.7.2018. The Writ Court disposed of the Writ Petition and made certain observations which reads as under:

*“4. From the records, it is seen that the fifth respondent has already been identified to be an encroacher by the revenue authorities. The fifth respondent in order to encroach upon the Government property, is attempting to use the Petitioner’s land as accessway. The Petitioner has already given a representation to the respondent Police bringing to their notice the above said facts and has sought for police protection since there is a threat to his life and his property. The said complaint has also been received by the respondent Police.*

*5. The fourth respondent is directed to act upon the complaint given by the Petitioner and ensure that the fifth respondent does not disturb the possession of the Petitioner in his property and if the fifth respondent created any law and order problem, the fourth respondent is directed to take appropriate action against the fifth respondent. The fourth respondent Police shall take into consideration the report of the Tahsildar, dated 31.7.2018 and the report of the Revenue Divisional Officer, dated 6.8.2018 in this regard.”*

Challenging the said observation made by the Writ Court, the fifth respondent in



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4.The main contention of the learned counsel for the appellant is that no notice was issued to the fifth respondent therein/appellant herein. While certain observations were made against the private respondent, the Writ Court ought to have given notice to him. Without giving notice to the fifth respondent, certain observations were made which is against him. Therefore the present Writ Appeal is filed.

5.The learned counsel for the fifth respondent/Writ Petitioner would submit that in the proceeding of the Revenue Divisional Officer, it was held that the appellant was an encroacher. Therefore the Writ Court passed the above order, which needs no interference.

6.A perusal of the order would show that the fifth respondent herein filed the Writ Petition before the Writ Court. Though it was a simple writ of mandamus against the respondents 1 to 4 therein, the Writ Court while disposing the Writ Petition, without giving notice to the appellant herein, disposed the Writ Petition



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with certain observations as if he is in encroachment and has also directed not to disturb the possession of the Petitioner in his property and in constructing the compound wall. The dispute appears to be civil in nature between the two individuals. However, the Writ Court failed to issue notice to the private respondent therein and made certain observations against which, the private respondent therein filed the present appeal, in which, this Court warrants interference.

7Accordingly, the Writ Appeal is allowed by setting aside the observations made against the appellant by the Writ Court in the above Writ Petition. However, the first respondent is at liberty to work out his remedy in the manner known to law, if any relief survives so far. No costs.

[P.V.,J.] [K.K.R.K.,J.]  
03.09.2024

NCS : Yes/No  
Index : Yes / No  
Internet : Yes / No  
vsn



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To

- 1.The Tahsildar,  
Taluk Office,  
Kodaikanal,  
Dindigul District.
- 2.The Superintendent of Police,  
Dindigul.
- 3.The Deputy Superintendent of Police,  
Kodaikanal,  
Dindigul District.
- 4.The Inspector of Police,  
Kodaikanal Town Police Station,  
Dindigul District.



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**P.VELMURUGAN, J.**  
**and**  
**K.K.RAMAKRISHNAN, J.**

vsn

**JUDGMENT MADE IN**  
**W.A(MD)No.1641 of 2018**

**03.09.2024**