



W.P.(MD)No.27132 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2024

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THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P (MD) No.27132 of 2023

P.R.Subramanian

...Petitioner

VS

**1.The Superintendent of Police,
Sivagangai District.**

**2.The Inspector of Police,
Madhagupatti Police Station,
Sivagangai District.**

3.Sahadevan Ramasamy

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus, by directing the 1st and 2nd Respondents to provide adequate police protection to the Petitioner's life and limb while being in the properties in S.No.87/1A & 87/2, Peritchi Kovil Village, Thiruppathur Taluk, Sivagangai District came through execution of sale deed by the learned Subordinate Judge, Sivagangai in Doc.No.230/1990, dated 27.02.1990 by considering the Petitioner's representation, dated 03.11.2023.



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For Petitioner : Mr.R.Anand
For R1 and R2 : Mr.M.Veeranthiran
Government Advocate (Crl.side)
For R3 :Mr.G.Prabhu Rajadurai

ORDER

The Writ Petition had been filed seeking for a direction to the Respondents 1 and 2 to provide adequate Police protection to the Petitioner's life and limb for the properties in S.Nos.87/1A & 87/2, Peritchi Kovil Village, Thiruppathur Taluk, Sivagangai District by considering the Petitioner's representation, dated 03.11.2023.

2.The learned Counsel for the Petitioner submitted that the Petitioner's father had entered into an agreement for sale with Ramasamy Pillai and others for purchase of 29 acres and 80 cents in S.Nos.87/1A and 87/2 in Peritchi Kovil Village, Thiruppathur Taluk, Sivagangai District. Subsequently, the seller did not come forward to register the sale deed, which forced the father of the Petitioner to file a suit for specific performance with the Munsif Court, Tiruppathur in O.S.No.57 of 1977. After contest, the suit was decreed in favour of the Plaintiff, the father of

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the Petitioner herein. Aggrieved by the same, the seller, as Defendant in the suit, had preferred an Appeal Suit before the District Court, Ramanathapuram in A.S.No.1 of 1979. The Appeal was also dismissed on merits after hearing the arguments on both sides. Aggrieved by the same, the Defendant, as Appellant, had preferred a Second Appeal before this Court in S.A.No.1919 of 1980. After hearing both parties, this Court by judgment, dated 21.12.1987, dismissed the Second Appeal, thereby, confirming the decree already granted to the Plaintiff.

3.The plaintiff/father of the Petitioner, as decree holder, had preferred E.P.No.46 of 1998 for execution of sale deed. Since the Defendant did not come forward to execute the sale deed, the Court, on its own motion, executed a sale deed and it was registered before the Sub Registrar, Sivagangai and possession was also handed over to the Plaintiff and the possession continuous to be with the Plaintiff.

4.While so, the third Respondent had lodged a complaint with the Police as well as the Revenue Officials that the Petitioner's family had encroached on poramboke properties also. The third Respondent had also



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filed a Writ Petition before this Court in W.P.(MD)No.18529 of 2023 stating that the Petitioner herein has encroached on the water body. After hearing the learned Counsel for the Petitioner in the Writ Petition and the learned Government Advocate, this Court had ordered the District Collector along with the revenue officials to survey the land and find out the encroachment and file a report before this Court. Accordingly, the District Collector through the revenue officials held out the survey of the land under the possession of the Petitioner herein and had filed a detailed report before this Court. Based on the report filed by the District Collector after surveying the land, it was found out that there was no encroachment on water body. In the light of such report, the Writ Petition filed by the third Respondent herein was dismissed by order, dated 20.09.2023.

5. Even after this, now the third Respondent had come forward with a different story claiming that his ancestral temple is within this property and enjoyed by the Petitioner herein and he has a right to worship in the temple. Based on this claim, he had preferred a complaint with the second Respondent. Therefore, the Petitioner had come forward by filing this Petition seeking Police protection.



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6.The learned Counsel for the third Respondent vehemently objected to the line of arguments of the learned Counsel for the Petitioner by relying the the judgment of Hon'ble Supreme Court in ***P.R.Muralidharan and others vs Swami Dharmananda Theertha Padar and others [(2006) 4 SCC 501]*** and submitted that the land in S.No.87/3 is a land in which the family deity of the third Respondent is situated. The said temple had been used for worship by the ancestors of the third Respondent and which property is in between the properties claimed by the Petitioner. Therefore, the third Respondent had a right to protect the property.

7.The learned Government Advocate (Crl.side) submitted that as per the direction of the Director General of Police, Tamil Nadu, the Head of State Police Force, the field officers were warned not to encourage or entertain any complaint regarding civil dispute and violation will be taken seriously. Also, the Additional Director General of Police, Law and Order, had also issued circular warning the field officers not to encourage or entertain any complaint regarding money dispute or property dispute. Therefore, the Respondent Police undertake to comply the orders of this



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Court.

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8.In case of this nature, the Civil Court has powers to execute the decree. The Civil Court has already executed a decree in favour of the Petitioner herein, after agitating the right of the Defendant in the Suit upto the stage of Second Appeal. Further, as pointed out by the learned Counsel for the Petitioner, the third Respondent, as Writ Petitioner, had filed a Writ Petition claiming that the Petitioner herein had encroached on the water body. Based on the direction of this Court, the District Collector along with the revenue officials and the Surveyors had surveyed the property with the help of field map and found out that there was no encroachment and therefore, the Writ Petition having been dismissed, the claim of the third Respondent that there is a temple in S.No.87/3 will not hold good against the Petitioner herein.

9.The Respondent Police are duty bound to protect the possession of the property from the interference of third parties, who have no right or claim. It is to be noted that the dispute between the parties had ended in favour of the Petitioner herein upto the stage of Second Appeal. Therefore,



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after more than 30 years, the Civil Court cannot be forced to issue a direction, which is time consuming and defeat the purpose for which the Petitioner had approached this Court. The decree is confined to S.Nos.87/1 and 87/2, whereas, the claim of the third Respondent is only to S.No.87/3. It is complained that the subject matter of the properties in S.Nos.87/1 and 87/2 were alleged to have been purchased by the Petitioner herein from parties, who did not have right to sell. That part of the complaint cannot be accepted in the light of the decree in favour of the Petitioner herein having been confirmed upto the stage of Second Appeal before this Court. The same decree was executed by the Executing Court by executing a sale deed and registered it in favour of the Petitioner. While so, the claim of the third Respondent to interfere with the rights of the Petitioner cannot at all be accepted as reasonable or legal.

10.Further, the objections of the learned Counsel for the third Respondent cannot be accepted by this Court, as the decree of the Civil Court was agitated upto the stage of Second Appeal and the decree was executed through the Court. The Civil Court, as a executing Court, had executed a sale deed, which was registered. Further, based on the decree for



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specific performance, the Court, having executed the sale deed, has to necessarily grant possession also to the decree holder. During all these proceedings, the so called complainant party had not agitated the decree by filing a Miscellaneous Petition/Intervening Petition as third party or they had not sought to implead themselves either in the Suit or in the Appeal Suit or in the Second Appeal. For those reasons, the claim now putforth by the third Respondent is found unacceptable in the point of time barred claim. It is open to the third Respondent to agitate his right, if it is advisable as per law.

11.Further, the third Respondent/Writ Petitioner in W.P.(MD)No. 18529 of 2023, had not preferred any appeal as against the order passed in that Writ Petition. Therefore, the direction of the Director General of Police, Tamil Nadu, the Head of State Police Force, not to entertain any complaint on the civil matter will not hold good in this case. Civil Court decree has to be enforced only through Police considering the fact the Complainant party has no claim or right to interfere with the peaceful possession of the property, that was in continuation of the decree granted by the Civil Court. This is an exception to the Circular of Director General of Police, Tamil



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Nadu, the Head of State Police Force, and the Additional Director General of Police. The Police is bound to protect the decree of a Civil Court as per Order 21 of CPC.

12. Even though this is a Writ Petition, the Petitioner herein cannot enforce the decree after thirty years, when the party, who does not have any claim, are attempting to interfere, when there is already a decree obtained by the Petitioner herein. Therefore, the Court is duty bound to protect the decree of the Civil Court for which the ruling cited by the learned Counsel for the third Respondent cannot be found acceptable in the specific facts and circumstances of this case. Therefore, the contention of the learned Counsel for the third Respondent/De-Facto Complainant that the Court exercising discretionary power under Article 226 of Constitution of India cannot enforce a civil right will not hold good in this case as the Civil right had been enforced by the High Court in Second Appeal. In continuation of the same only, this is exercised and Execution Petition for a decree from the Civil Court has to be executed within twelve years. Accordingly, decree had already been executed. After thirty years, the very same Civil Court cannot order Police protection. Therefore, the contention of the learned



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Counsel for the third Respondent relying on the orders of the Hon'ble Supreme Court in ***P.R.Muralidharan and others vs Swami Dharmananda Theertha Padar and others [(2006) 4 SCC 501]*** is rejected, as not applicable to the specific facts and circumstances.

In the light of the above, this ***Writ Petition*** is allowed and the Respondents 1 and 2 are directed to extend the Police protection in the light of the decree in favour of the Petitioner herein granted long time ago, which was confirmed upto the stage of Second Appeal by this Court. No costs.

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

01.02.2024

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To

1.The Superintendent of Police,
Sivagangai District.

2.The Inspector of Police,

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Madhagupatti Police Station,
Sivagangai District.

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