



W.P.(MD).No.29969 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.12.2024

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD).No.29969 of 2023
and
W.M.P.(MD).No.25836 of 2023

N.Johnson

...Petitioner

Vs.

- 1.The Superintendent of Police,
Nagercoil,
Kanyakumari District.
- 2.The Deputy Superintendent of Police,
Marthandam Police Station,
Thuckalay, Kanyakumari District.
- 3.The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
- 4.Vinesh Babu,
Sub Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
- 5.P.Vijayakumar @ Stephen
- 6.Kannan
- 7.Sheeba
- 8.Sulochana



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9.C.Jayadish Chandran

10.Pamala,

President,

Unamalai Kadai Special Grade Panchayat,

Unnamalai Kadai,

Kanyakumari District.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents 1 to 3 to provide police protection to the petitioner and his men, agents, and subordinates for their life and safety regarding the peaceful possession and enjoyment of the petitioners property by erecting boundary stones with barbed wire fencing in Re.Sy.No.734/9A2 corresponding to old Sy.No. 257A, Old Nattalam, New Unnamalaikadai village, Vilavancode Taluk, Kanyakumari District assigned to the petitioner in Plot B1 under the Judgment and Decree dated 09.10.2020 passed by the learned Subordinate Judge, Kulithurai in O.S.No.16 of 2012 and the award dated 13.08.2022 passed in the Lok Adalat in terms of the settlement memo in O.S.No.16 of 2012 and in the light of the judgment and decree dated 15.02.1978 in O.s.No.430 of 1965 passed by the Principal District Munsif Court, Kulithurai and the judgment and decree passed in O.S.No. 329 of 1987 dated 27.04.1993 passed by the Principal District Munsif Court, Kulithurai, which was confirmed in A.S.No.31 of 1993 dated 31.03.1994 by the Subordinate Court, Kulithurai and further confirmed in S.A.No.1160 of 1994, dated 19.08.2006 passed by this Court and the judgment and decree dated 28.03.2013 passed by the Subordinate Court, Kulithurai in A.S.Nos.55 and 56 of 2011 and the judgment and decree dated 04.09.2010 passed by the Principal District Munsif Court, Kulithurai in O.S.No.363 of 2009 and affirmed in A.S.No.9 of 2011 by the Subordinate Court, Kulithurai on 17.09.2013.



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For Petitioner : Mr.N.Dilip Kumar
For R-1 to R-3 : Mr.A.Albert James,
Government Advocate
(Crl.side)
For R-5 : Mr.T.Jeen Joseph
For R-7 to R-9 : Mr.C.Kishore
For R-6 : Service Awaited
For R-10 : No Appearance

ORDER

This petition has been filed for the issue of Writ of Mandamus directing respondent Nos.1 to 3 to provide Police protection to the petitioner for the subject property based on the Civil Court judgments and decrees already passed.

2. Heard the learned counsel on either side.

3. In the considered view of this Court, it is not necessary for this Court to go into certain rival claims that were made on the side of the private respondents. The fact remains that the right of the parties has already been decided by the Civil Courts. If that right and title has already attained finality, no one will be permitted to reopen the same. If



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such right and title is sought to be exercised and there is any attempt to prevent the same, the respondent Police is expected to provide police protection.

4. Unfortunately, in the present case, the Police have closed the complaint given by the petitioner on the ground that the parties must go before the Civil Court. This has been done by the Police without any application of mind, since there are sufficient materials to show that the right and title over the properties has been decided by the Civil Courts. Therefore, the respondent Police cannot once again ask the parties to go before the Civil Court and work out their remedy.

5. In view of the above, there shall be a direction to the second respondent to deal with the representation made by the petitioner seeking for Police protection. The second respondent shall call the parties and the judgments and decrees already passed shall be taken into consideration and the rival parties shall be informed that they cannot prevent the petitioner from enjoying the fruits of the decrees and if at all they are aggrieved, it is for them to go and agitate the same before the appropriate forum in the manner known to law. In the absence of the same, the petitioner will be entitled for Police protection.



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6. Useful reference can be made by the judgment of this Court in the case of ***Radhika Sri Hari and Another Vs. Commissioner of Police, Coimbatore and others*** reported in **2014 (2) CTC 696**. These judgments have been subsequently relied upon in various orders and one such order passed is in CrI.O.P.(MD).No.17733 of 2019 dated 28.04.2022. These judgments in turn relied upon the Government Order passed in G.O. (3D).No.42, Home, dated 30.06.2008 and GO.(Ms).No.1580, Home (POL.VII) Department, dated 24.11.2008, which specifically provided that where the Civil Court proceeding has reached the finality, the Police cannot once again drive the parties to the Civil Court and the parties must be permitted to enjoy the fruits of the decree by the Police by providing proper police protection.

7. This Writ Petition is disposed of in the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

13.12.2024

Index : Yes/No
Internet : Yes/No

TSG



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To

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- 3.The Inspector of Police,
Marthandam Police Station,
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- 4.The Sub Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH.J.,

TSG

**Order made in
W.P.(MD).No.29969 of 2023**

**Dated :
13.12.2024**