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W.P.No.14924 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.14924 of 2023
and
W.M.P.No.14514 of 2023

A.Sivakami

... Petitioner

Vs

1. The Superintendent of Police,
Erode District,
Erode - 638 011.

2. The Deputy Superintendent of Police,
Gobichettipalayam Circle,
Gobichettipalayam,
Erode District.

3. The Inspector of Police,
Kadathur Polie Station,
Gobichettipalayam Taluk,
Erode District.

4. Mani @ Maniammal

5. Suresh

6. Jothi

... Respondents



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Writ Petition filed under Article 226 of the Constitution praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to give adequate police protection to restore possession of the property measuring 4000 sq.ft., bearing R.S. No.337/23, Chettipalayam Koodakkarai Village, Gobi Chettipalayam Taluk, Erode District as per the delivery receipt dated 22.09.2022 made in E.P. No. 10 of 2015 in O.S. No. 71 of 2013 passed by the District Munsif Court, Gobichettipalayam by considering her representation dated 29.12.2022.

For Petitioner : Mr.N.Manoharan
For Respondents : Mr.A.Gopinath,
Govt. Advocate (Crl. Side) (for R1 to R3)
Mr.C.Meenakshi
for Mr.M.Dinesh (for R4 to R6)

ORDER

This petition has been filed for directing the first to third respondents to give adequate police protection to restore possession of the property measuring an extent of 4000 sq. ft., comprised in R.S. No. 337/23, situated at Chettipalayam Koodakkarai Village, Gobichettipalayam Taluk, Erode District, as per the delivery receipt dated 22.09.2022 made in E.P. No. 10 of 2015 in O.S. No. 71 of 2013 passed by the District Munsif Court, Gobichettipalayam, by considering her representation dated 29.12.2022.



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2. Heard the learned counsel for both sides and perused the materials available on record.

3. The petitioner's husband filed a suit in O.S. No.71 of 2013 on the file of the District Munsif Court, Erode, for declaration and recovery of possession in respect of the property comprised in R.S. No. 337/23 to an extent of 4000 sq. ft., including the house situated at Chettipalayam Koodakkarai Village, Gobichettipalayam Taluk, Erode District, against the respondents 4 to 6 herein. It was decreed by the judgment and decree dated 26.11.2014. Thereafter, the decree holder/the petitioner's husband died, and his legal heirs, including the petitioner, filed an Execution Petition in E.P. No. 10 of 2015 and also filed an application in E.A. No. 5 of 2022 seeking police aid to take delivery. With police aid, the Executing Court took possession of the subject property from respondents 4 to 6 herein and handed it over to the petitioner herein. It was also recorded by the Execution Court. While that being so, once again, respondents 4 to 6 trespassed into the subject property by breaking open the lock of the premises on



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28.12.2022. Therefore, the petitioner lodged a complaint before respondents

1 to 3.

4. On instructions, the learned counsel for respondents 4 to 6 states that the petitioner's husband obtained an ex-parte decree in O.S. No. 71 of 2013. Now, respondents 4 to 6 have filed an application in I.A. No. 1 of 2022 to set aside the ex-parte decree, and it is pending due to the pendency of this petition. Though this writ petition is in no way connected with the petition to set aside the ex-parte decree, the Trial Court has not taken up the application so far for enquiry. She further submitted that respondents 4 to 6 never trespassed into the suit property; they are not in possession of the suit property. The petitioner lodged a false complaint alleging that respondents 4 to 6 trespassed into the property.

5. In view of the above, the respondents 4 to 6 are not in possession of the subject property. The petitioner can very well enter into the subject property and enjoy the same. At the same time, if respondents 4 to 6 succeed in the suit, they can approach the civil Court for appropriate



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relief for restoration of possession of the suit property. Therefore, there is absolutely no necessity to provide police protection to restore possession of the subject property, since the petitioner can very well enter into the premises. If there is any obstruction from respondents 4 to 6 herein, the third respondent is directed to register a case against respondents 4 to 6 and take appropriate action against them in accordance with law.

6. With the above directions, this Writ Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

27.03.2025

Index:Yes/No
Neutral Citation/Yes/No
kv



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Erode District.
 3. The Inspector of Police,
Kadathur Police Station,
Gobichettipalayam Taluk,
Erode District.
 4. The Public Prosecutor,
High Court of Madras.



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G.K.ILANTHIRAIYAN, J.

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