



WEB COPY



W.P.(MD)No.2159 of 2025

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.2159 of 2025

R.Balasundararaj

... Petitioner

Vs.

1.The Superintendent of Police,
O.o. The Superintendent of Police,
Thadikombu Road,
Dindigul.

2.The State rep., by
The Inspector of Police,
Dindigul Taluk Police Station,
Round Road, Dindigul.

3.Selvi

... Respondents

PRAYER : Petition filed under Article 226 of Constitution of India seeking for issuance of Writ of Mandamus to direct the second respondent to provide adequate police protection to remove the hut which was illegally made by the third respondent in the petitioner's house property in Survey No.743/1E, Plot NO.8, situated at Balakrishnapuram Village, Dindigul Taluk & District based on his representation dated 09.12.2024.



WEB COPY



W.P.(MD)No.2159 of 2025

For Petitioner : Mr.K.Arunraj
For R1 & R2 : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

The petitioner had sent a representation on 09.12.2024 seeking for removal of encroachment made by one Selvi/third respondent herein. The contention of the petitioner is that on 26.12.2007, the petitioner and one Selvi, W/o Ganesan, both joint together had purchased a property in S.No.743/1E vide sale agreement in Doc.No.4802/2007. Thereafter, as per agreement, the said Selvi has not executed a sale deed. Hence, the petitioner had filed a civil suit in O.S.No.180 of 2008 before the Additional Subordinate Court, Dindigul. The suit ended in favour of the petitioner, against which, Selvi had filed an appeal suit in A.S.No.24 of 2012 and thereafter, second appeal in SA(MD).No.570 of 2015. In all the appeals, the said Selvi had lost the case and judgment of the trial Court in O.S.No.180 of 2008 was confirmed in favour of the petitioner. Thereafter, the petitioner had filed E.P.No.175 of 2014 and the sale deed was executed. Thereafter, E.P.No.212 of 2019 was filed seeking for possession. The Court Ameen had taken possession of the property and handed over to the petitioner. This being so, taking advantage of the



W.P.(MD)No.2159 of 2025

absence of the petitioner, the said Selvi had put up a small house in the corner of the subject property and encroached, which was objected and thereafter, complaint was lodged, but no action has been taken. Hence, the above petition.

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

3. Considering the submission and perusal of the materials, it is seen that the petitioner's sale deed to the property has been executed by the Civil Court in E.P.No.175 of 2014 and thereafter, in E.P.NO.212 of 2019, the Court Ameen had handed over to the possession of the property to the petitioner. Earlier, there was a civil suit, which reached up to second appeal. The said Selvi as encroacher had lost the case. In view of the same, when there is no order against the petitioner from the civil Court and civil Court case also reached its finality, the petitioner's right and enjoyment over the property cannot be denied, which is the fundamental right. Hence, this Court directs the Inspector of Police, Dindigul Taluk Police Station, to remove the encroachment in the property and restrained Selvi from entering into the property and causing any trouble to the petitioner, by following the direction of this Court in



W.P.(MD)No.2159 of 2025

the case of “*Radhika Sri Hari and another .vs. The Commissioner of Police*” reported in *2014-2-LW- 927*”. The entire exercise shall be completed within a period of two weeks from the date of receipt of copy of this order.

4. With the above direction, this Writ Petition is disposed of. No costs.

28.01.2025

NCC : Yes / No
Index : Yes / No
Rmk

To

- 1.The Superintendent of Police,
O.o. The Superintendent of Police,
Thadikombu Road,
Dindigul.
- 2.The Inspector of Police,
Dindigul Taluk Police Station,
Round Road, Dindigul.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



W.P.(MD)No.2159 of 2025

M.NIRMAL KUMAR, J.

Rmk

Order made in
W.P.(MD)No.2159 of 2025

Dated: 28.01.2025