



W.P.CrI.(MD) No.992 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	06.11.2025
Pronounced on	13.11.2025

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

W.P.CrI.(MD) No.992 of 2025

and

W.M.P.CrI.(MD) No.259 of 2025

G.Rukmani

... Petitioner

Vs.

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

2.The Sub-Inspector
/The Station House Officer,
Thiruppathur Town Police Station,
Thiruppathur Taluk,
Sivagangai District.

3.Palaniyammal

... Respondents

[R3 is *suo motu* impleaded as per the order of this
Court dated 04.09.2025]

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the first and second respondents to grant police protection to the petitioner and her property in Survey Nos.82/22, 82/23 and 82/24, Thiruvaidaiyarpatty Village, Sivagangai District and to take action against the trespassers in



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furtherance of the criminal case in Crime No.148 of 2025, on the file of the second respondent police within the time that may be stipulated by this Court.

For Petitioner : Mr.M.Mahaboob Athiff
For R1 and R2 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor
For R3 : Mr.R.Suriya Narayanan
for M/s.C.Jeya Indira Patel

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the first and second respondents to provide police protection to the petitioner and her property in Survey Nos. 82/22, 82/23, and 82/24, Thiruvudaiyarpatty Village, Sivagangai District, and to take action against the trespassers in furtherance of the criminal case in Crime No.148 of 2025, on the file of the second respondent police.

2. It is the case of the petitioner that she purchased the disputed property in a Court auction held on 28.04.2004; that a sale deed was executed in her favour by the Court; that since third parties were in possession, she filed a suit in O.S.No.103 of 2009 on the file of the learned Sub Judge, Sivagangai; that the said suit was decreed on



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10.11.2021; that thereafter, she filed an Execution Petition in E.P.No.13 of 2022 on the file of the Sub Court, Sivagangai, which was ordered on 22.01.2025; that possession was handed over to the petitioner through Court, and on execution of the warrant, the Execution Petition was terminated on 27.02.2025; that thereafter, patta and electricity service connection were transferred in the name of the petitioner, and she has been paying the electricity charges; that after delivery of possession, on 11.05.2025, the third respondent herein, who was the defendant in the above said suit, trespassed into the property by breaking open the doors and attempted to take possession; that when the petitioner visited the property, she was attacked by the third respondent, and therefore, she lodged a complaint with the second respondent herein, which was registered in Crime No.148 of 2025; and that in spite of the order of delivery, the third respondent is still violating the civil court decree and the order passed in the Execution Petition.

3. The learned counsel for the petitioner reiterated the averments made in the affidavit and submitted that the Hon'ble Supreme Court, in ***P.R. Murlidharan and Others vs. Swami Dharmananda Theertha Padar and Others***, reported in (2006) 4 SCC 501, had held that a Writ of



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Mandamus can be issued directing the police to provide protection where the rights of the parties have been declared by a decree or order passed by the Civil Court; and that since the third respondent had damaged the property of the petitioner and committed the offence of criminal trespass, she is entitled to police protection.

4. This Court, on 09.10.2025, had dictated an order in open Court, which was not signed, directing the first and second respondents to consider the petitioner's representation favourably as none appeared for the third respondent. Thereafter, a learned counsel mentioned before this Court stating that she represents the third respondent and sought leave of this Court to file a counter affidavit. Therefore, this Court recalled the earlier order dated 09.10.2025 and permitted the third respondent to file a counter affidavit.

5. The learned counsel for the third respondent submitted that the suit filed by the petitioner in O.S.No.103 of 2009 for recovery of possession was itself barred by limitation, as the petitioner ought to have filed a suit for recovery of possession within one year from the date of sale, which was in the year 2004, and therefore, the Execution Petition



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was also not maintainable; that the third respondent was in Malaysia and has now filed an appeal against the judgment in O.S.No.103 of 2009 on the file of the Sub Court, Sivagangai, before the District Court, Sivagangai, which is pending; that the third respondent is still in possession of the property; that suppressing the above facts, the petitioner has come up with false allegations that she was forcibly evicted from the property after delivery of possession by the Bailiff; and that, in such circumstances, the Writ Petition would not be maintainable. He relied upon the order passed by this Court in ***T. Karunakaran vs. The Inspector of Police, T-4, Maduravoyal Police Station and Another***, dated 08.02.2021, in W.P.(MD) No.1965 of 2021, in support of his submission that it is for the Execution Court to decide whether there was delivery of possession or not, and such disputes cannot be decided by the police. He also relied upon certain observations made in the judgment in ***P.R.Murlidharan*** (cited *supra*), which was relied upon by the learned counsel for the petitioner.

6. It is not in dispute that the petitioner obtained an order from the Execution Court directing the third respondent herein to vacate and deliver possession of the disputed property in E.P.No.13 of 2022 on



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22.01.2025. It is also not in dispute that the Execution Petition was terminated on 27.02.2025, after it was reported by the Bailiff that delivery was effected. Therefore, at this stage, it cannot be said that the petitioner is not in possession of the property. Even according to the third respondent, he came to know of the order passed in the Execution Petition only in April 2025, and no steps have been taken to make an application before the Execution Court to challenge the endorsement made by the Senior Bailiff regarding delivery. The Affidavit filed by the third respondent also does not state as to whether the decree passed by the Trial Court has been stayed, although it states that an appeal is pending. The second respondent has also registered an FIR in Crime No.148 of 2025 on the complaint given by the petitioner for the offences under Sections 296(b) and 115(2) of the Bharatiya Nyaya Sanhita, 2023. Therefore, as on date, the petitioner is armed with an order passed by the Execution Court, which confirms that she is in possession of the property.

7. If any person disturbs the possession of the petitioner after delivery of possession by a court order, it would not only amount to a violation of the orders passed by the Civil Court but would also constitute an offence.



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8. In ***P.R.Murlidharan*** [cited *supra*], the Hon'ble Supreme Court

has observed as follows:

“19. A writ for "police protection" so-called, has only a limited scope, as, when the court is approached for protection of rights declared by a decree or by an order passed by a civil court. It cannot be extended to cases where rights have not been determined either finally by the civil court or, at least at an interlocutory stage in an unambiguous manner, and then too in furtherance of the decree or order.”

9. The above observations would squarely apply to the facts of the present case, as the petitioner is armed with the order as stated above. In the above case, the Hon'ble Supreme Court has also held that a Writ of Mandamus cannot be issued to grant protection to a person who seeks to adjudicate his civil rights under the guise of seeking police protection. In the present case, since the petitioner is not seeking to declare any right, but only to enforce an already declared right, this Court is of the view that the relief sought by the petitioner in this Writ Petition can be granted.

10. That apart, in the order of this Court in ***T. Karunakaran*** [cited *supra*], which was referred to by the learned counsel, police protection was refused, since in that case, the defendant had challenged the stand



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taken by the plaintiff that possession had been handed over by the Bailiff before the Execution Court. In the present case, admittedly, no such challenge has been made so far.

11. For all the foregoing reasons, this Court is inclined to grant police protection to the petitioner, as prayed for. Therefore, the first and second respondents shall provide police protection to the petitioner, as prayed for, and shall also expedite the investigation in Crime No.148 of 2025 and file a final report within a period of two months from the date of receipt of a copy of this order.

12. With the above observations, this Writ Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

13.11.2025

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

Copy To:

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



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- 2.The Sub-Inspector
/The Station House Officer,
Thiruppathur Town Police Station,
Thiruppathur Taluk,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

JEN

Pre-Delivery Order made
in
W.P.Crl.(MD) No.992 of 2025

13.11.2025