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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2026

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

WP Crl. No. 2830 of 2026

CNR: {HCMA012520162026}

B.Durai
S/o Balasubramaniam,
No.10/25, Anna Nedupadai,
Kalaimagal Street,
Choolaimedu, Chennai – 600 094.

..Petitioner

Vs

1. The Commissioner of Police
   Vepery, Chennai – 600 007.

2. The Inspector of Police(Law and Order)
   F-5, Choolaimedu Police Station,
   Choolaimedu, Chennai – 600 094.

3. K.Palani
   S/o. K.S.Kannan,
   No.21, Bharathiyar Street,
   Choolaimedu, Chennai – 600 094.

4. Rajikumar
   No.21, Bharathiyar Street,
   Choolaimedu, Chennai – 600 094.

..Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the 1st and 2nd Respondents to provide Police Protection to Petitioner, to enter and carry repair works of his house property situated at New No.21/1, Old No.50, Bharathiyar Street, Choolaimedu, Chennai – 600 094 based on the representation dated 08.09.2026.

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For Petitioner: Mr.C.Raghavan

For Respondents: Mr.Arun Anbumani,
Additional Public Prosecutor for R1 and R2
Mr.C.B.Murali Krishnan for R3

ORDER

Heard Mr.C.Raghavan for the petitioner, Mr.Arun Anbumani for respondents 1 and 2 and Mr.C.B.Murali Krishnan for the third respondent.

2. The petitioner is the purchaser of a property situated at New No.21/1, Old No.15, Bharathiyar Street, Choolaimedu, Chennai - 94. He purchased the property from one Rekha on 13.02.2026. Earlier, Rekha, for herself and on behalf of her son, Vijai Lokesh presented a suit for declaration that the cancellation deed dated 15.07.2005 was null and void and also for a decree for partition and separate possession. This suit was taken on file by this Court in Tr.C.S.No.449 of 2008. After hot contest, a preliminary decree came to be passed, followed by a final decree on 10.03.2020. An Advocate Commissioner had been appointed by this Court. The Advocate Commissioner also inspected the suit property and suggested the modes of division. In terms of the three modes that were suggested, the first mode was accepted by the final decree Judge. As per the final decree, the eastern portion of the property was allotted to the plaintiffs and the western portion of the property was allotted to the third defendant therein. No appeal was preferred either against the preliminary decree or final decree. The decree attained finality in the year 2020.

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3. Having obtained the decree, Rekha and Vijai Lokesh presented an execution petition to take delivery of possession. This was in E.P.No.112 of 2022 before the learned Master. The decree was also put into execution and delivery through the process of Court was taken on 06.03.2025. The fourth respondent herein filed three applications in A.Nos.1882, 1884 and 1885 of 2025 seeking to obstruct the decree before the learned Master. After hearing both sides, the applications came to be dismissed by the learned Master on 22.08.2025.

4. Aggrieved by this order, the obstructor preferred Master's appeal before a learned Single Judge in A.Nos.1921, 1922 and 1923 of 2026. This Court, by a common order dated 04.08.2026, dismissed the applications. The learned Single Judge concluded that the records show warrants for delivery were issued and the decree holders had been granted police aid and authority to break open and thereafter, delivery had been recorded by the bailiff on 06.03.2025. The Court also returned a finding that the decree holders cannot be indefinitely deprived of the benefit of the decree merely because the obstructor seeks another opportunity.

5. Having been strengthened by so many orders of the Court, the petitioner vainly believed that the judgment debtor will obey the decree. His belief was entirely misplaced. The litigation appetite of the third respondent seems to be insatiable. When the petitioner, who has

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purchased the property from the decree holder, attempted to enter the premises to carry on some alteration work in the property purchased by him, the third respondent yet again started interfering with the possession. Hence, the petitioner gave a representation to the respondent police on 08.09.2026 seeking police protection to enter and carry on repair works. As it was not heeded to, the matter is before this Court.

6. When the matter came up for admission on 27.10.2026, I called upon Mr.S.Yogaraja Sekar to take notice on behalf of respondents 1 and 2 and further requested him to ensure that the second respondent serves notice on respondents 3 and 4. Mr.C.B.Murali Krishnan has entered appearance for the third respondent.

7. Mr.C.B.Murali Krishnan concedes to the orders that have been passed earlier. He claims that between co- owners, they are entitled to have an easement of necessity invoking Section 13 of the Indian Easement Act, 1882. He states that the petitioner is attempting to take possession of the property through this writ petition and therefore, the writ petition deserves dismissal. He relies upon three judgments of this Court to press home his points:-

(i) *C.Kalaimani vs. State of Tamil Nadu rep. By Inspector of Police (Law and Order), T12 Poonamallee Police Station, Poonamallee, Chennai – 56, W.P.No.12555 of 2022 dated 24.06.2022;*

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(ii) *P.Raman vs. The State rep. By The Inspector of Police, Pappireddipatti Police Station, Dharmapuri District and another, Crl.O.P.No.9866 of 2022 dated 21.07.2022;*and

(iii) *E.Sundaresan (deceased), S.Sankar vs. Tamil Nadu Wakf Board and others, W.A.No.764 of 2009 dated 26.02.2014.*

8. I have carefully considered the submissions on all sides. I have gone through the records.

9. A narration of the facts shows that the petitioner is the purchaser from the decree holder. The decree holder, after prolonged litigation, was granted the benefit of delivery of possession by this Court on 06.03.2025. The orders passed by the learned Master and the learned Single Judge in the appeal preferred from the order of the learned Master indicate that the order of delivery was accompanied with orders to break open and police aid. Once the bailiff has recorded that delivery of possession has been handed over to the decree holder, it carries with it the presumption under Section 114 of the Indian Evidence Act. The record of the Court indicates that the petitioner's vendor had taken possession of the property on 06.03.2025. That being the position, the suit claiming easementary right which had been filed 18 years after the suit that has been presented by the petitioner’s vendor cannot be a ground to state that the title of the petitioner's vendor is in dispute. This Court, after contest, had granted preliminary decree, followed it up with a final decree and also granted the decree holders the benefits of the aforesaid order.

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That being the position, there is no dispute that eastern portion of the property had been allotted to the decree holders.

10. Turning to the objections of Mr.C.B.Murali Krishnan, let me go through the judgments one by one. The first judgment is E.Sundaresan's case (cited supra). That was a case where the police protection was sought by the writ petitioner on the basis of a decree of dismissal that had been passed in a suit filed by the respondents therein. There was no decree of declaration in favour of the writ appellant. It was in those circumstances, the Division Bench came to a conclusion that when there is no decree in favour of the writ appellant, he is not entitled to seek for a mandamus of police protection. The Division Bench in paragraph No.21 of the order, made it clear that this Court possesses the jurisdiction under Article 226 of the Constitution of India to issue a mandamus to the police to give police protection in the following circumstances :-

(1)when the petitioners are in settled possession

(2)when the possession is undisputed and unambiguous

(3)when there are decrees and judgments of the Civil Court declaring the person's right to property and peaceful possession.

11. The Division Bench pointed out that police protection must not be granted only when there are disputed issues relating to title or when police aid is sought to be used in order to get possession. I have already

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pointed out that the proceedings in Tr.C.S.No.449 of 2008 and E.P.No.112 of 2022 on the file of this Court not only declared the right of the petitioner's vendor but also recorded that delivery of possession be granted to the eastern portion of the property situated at New No.21/1, Old No.15, Bharathiyar Street, Choolaimedu, Chennai – 94 with police aid and authority to break open.

12. The second judgment in P.Raman's case (cited supra), which Mr.C.B.Murali Krishnan relies upon also follows the settled position of law laid down by the Supreme Court in *P.R.Muralidharan and Others vs. Swami Dharmananda Theertha Padar and Others, 2006 (4) SCC 501* wherein, the Supreme Court in paragraph No.19 held that writ for police protection has a limited scope as when the Court is approached for protection of rights declared by a decree or an order passed by the Civil Court. The same reasoning has been echoed in C.Kalaimani's case (cited supra). The reasoning given by this Court for the judgment in E.Sundaresan's case applies in equal force with respect to these two judgments. In fact, in the opinion of this Court, the judgments instead of going in favour of the third respondent, are entirely in favour of the writ petitioner. The petitioner's vendor has not only a decree but also an order of delivery of possession in her favour. The vain attempt made by the third respondent to obstruct the decree has also miserably failed. After a prolonged litigation running into two decades, the decree holders turned out to be successful. Perhaps, unable to bear the pinpricks given by the

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third respondent, the decree holders sold the property to the writ petitioner.

13. As the petitioner is strengthened with a decree, there shall be a direction to respondents 1 and 2 to afford protection to the writ petitioner to enter and carry out repair works in the property purchased by him from the decree holder situated New No.21/1, Old No.15, Bharathiyar Street, Choolaimedu, Chennai - 94. Needless to say, the order of police protection shall come with a cost of Rs.10,000/- per day, which shall be borne by the writ petitioner. The petitioner seeks seven days of police protection. Therefore, he shall deposit a sum of Rs.70,000/- with the second respondent. The second respondent shall depute one Sub Inspector of Police, one Head Constable and one Police Constable Grade I for the purpose of affording protection.

14. With the above observation and directions, the writ petition stands ordered.

30.10.2026

Index: Yes/No
Neutral Citation: Yes/No
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3.The Public Prosecutor,
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V.LAKSHMINARAYANAN, J.

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