

## BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2012

CORAM:

THE HONOURABLE MR.JUSTICE S.TAMILVANAN

W.P. (MD) No.5115 of 2011

and

M.P. (MD) Nos.1 of 2011 and 1 of 2012

Anthony Devasahayam

... Petitioner

Vs.

- 1. The Superintendent of Police, Thoothukudi District.
- 2. The Sub Inspector of Police, Tharuvaikulam Police Station, Thoothukudi District.
- 3. Ponnuswamy
- 4.Sesuraj
- 5.Siria Pushpam

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to give police protection to enable the petitioner to carry out repair works for his house bearing Door No.2/3, Richard Lane, Tharuvaikulam, Thoothukudi District.

For Petitioner : Mr.E.Udhaya

For Respondents : Mr.B.Pugalendhi, Spl.G.P.

For R1 and R2

## ORDER

Heard learned counsel appearing for the petitioner as well as learned Special Government Pleader appearing for respondents 1 and 2. There is no representation for respondents 3 to 5.

- 2. The Writ petition has been filed by the petitioner under Article 226 of the Constitution of India, seeking an order in the nature of Writ of mandamus, directing respondents 1 and 2 to give protection to enable the petitioner to carry out repair works of his house bearing Door No.2/3, Richard Lane, Tharuvaikulam, Thoothukudi District.
- 3. Learned counsel appearing for the petitioner submits that there was a civil suit between the petitioner and respondents 3 to 5, which was filed by the third respondent. Subsequently, the third respondent died and the suit was also dismissed. Learned counsel appearing for the petitioner has not disputed that the dismissal of the suit filed by the said respondent cannot be construed a decree in favour of the petitioner. There was no counter claim made by the petitioner who was the defendant in the suit.

https://hcservices.ecourts.go4in/hcserAccts/ittedly, it is only a civil dispute and by impleading respondents 1 and 2, the petitioner cannot create a new case and seek police protection by invoking Article 226 of the Constitution of India.

5. Having gone through the averments made in the accompanying affidavit and considering the arguments advanced by both sides, I am of the view that the Writ petition is not legally maintainable and the same is liable to be dismissed.

6. In the result, the Writ petition is dismissed. However, it is open to the petitioner to approach appropriate Civil Court seeking the relief. No order as to costs. Consequently, connected M.Ps.are closed.

Sd/-

Assistant Registrar (AS)

/True copy/

Sub Assistant Registrar

То

- 1. The Superintendent of Police, Thoothukudi District.
- 2. The Sub Inspector of Police, Tharuvaikulam Police Station.

+1cc to the Special Government Pleader in SR.44321

W.P. (MD) No.5115 of 2011 21.12.2012

nbj

pbk 22/01/2013 ::2p-4c: