

IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF, ATTUR

PRESENT : **THIRU. G. YUVARAJ, M.A., M.L.,**
PRINCIPAL DISTRICT MUNSIF, ATTUR.

Tuesday, 1st day of November 2022.

I.A. No. 13 of 2022 in I.A. No. 2 of 2021

in

O.S. No. 213 of 2021

(CNR No. TNSA-1300-0261-2021)

1. Mariyayee
2. Kuppusamy
3. Kumar .. Petitioners / Respondents / Defendants

Vs.

1. Thangavel
2. Gomathi .. Respondents / Petitioners / Plaintiffs

This petition was came up for final hearing before me on 20.10.2022 in the presence of Thiru. S. Suresh, Advocate for the Petitioners / Respondents / Defendants and Thiru. P. Ramasamy, Advocate for the Respondents / Petitioners / Plaintiffs and upon hearing the arguments on either side, and upon perusing the materials records, and having stood over till this day for consideration, this date, this court delivers the following;

ORDER

The Petitioners / Respondents / Defendants have filed this petition u/s. 151 of CPC for directing the Inspector of Police, Thammampatti and his subordinates to give protection to the Petitioners and their men in restoring the cart track ran in S. No. 45/1B and 52/5C of Thammampatti Village as per the order of this court in I.A. No. 2/2021, Dt. 20.06.2022.

2. **Brief averments made in the petition and affidavit:** The 3rd Petitioner in his affidavit had stated that, the Respondents have filed a petition in I.A. No. 2/2021 for the relief of ad-interim injunction and the same was granted in their favour and after entering their appearance, they have filed counter and counter-claim statement and after hearing both side, this court directed the Respondents to restore the cart track runs in S. No. 45/1B and 52/5C to its original state after harvesting crops in the said survey numbers within two weeks and from 20.06.2022, there are no crops planted in S. No. 45/1B and 52/5C, but the Respondents had not restored the cart track as directed by this court and the petitioners are very much struggled in reaching their houses and lands in rainy season and on 06.07.2022, when they tried to level the cart track with aid of JCB, the first respondent and his wife agitated the petitioners from restoring the cart track. Again on 09.07.2022, the Petitioners have arranged vehicles like JCB and tractor to restore the cart track in order to reach their house from Kokkanadu road, but again the first respondent and his wife, rushed to the locality and vehemently agitated them from forming cart track and therefore, on 06.07.2022, the Petitioners have sent online complaint to the Thammampatti Police, but the Police have not taken any action. The Petitioners again went to the Inspector of Police, Thammampatti Police Station on 09.07.2022, but the Inspector had refused to receive the complaint given in person and hence on 10.07.2022, they have sent petitions to the D.S.P., Attur and the S.P., through RPAD. On 11.07.2022, the 1st and 3rd Petitioners have approached the Superintendent of Police, Salem in person and the said petition was forwarded to the D.S.P., Attur and at the time of enquiry, the S.P., Salem advised the petitioners to seek police protection by filing a petition and hence filed this petition for police protection while restoring the cart track.

3. **Brief averments made in the counter filed by the 1st Respondent / 1st Petitioner / 1st Plaintiff and adopted by the 2nd Respondent / 2nd Petitioner / 2nd Plaintiff :** This petition is not maintainable either in law or on facts and all the averments made in the affidavit are absolutely false, baseless. In order to misuse the order passed by this court, engaged some of the political wing persons those who are all having already enmity with the Respondents / Plaintiffs and hoisting their political flag and attempt to do all sorts of atrocities in the respondents' properties more than that are the extent of cart track which is mentioned in the order by using the JCB machinery and the Petitioners purely attempting to misuse the order by way of damaging more lands of the Respondents / Plaintiffs and there is no need to use any of the JCB vehicle to restore the cart track as alleged by the petitioner, since already the portion of the lands of the Respondents / Plaintiffs was left for using the cart track and also removed the wire fencing and the standing stones. But, the petitioners are attempting to create communal clashes. It is further stated that, the lands of the Respondents / Plaintiffs are lower level than that of the land situated on the northern side and if so the petitioners want to make the entire properties in one and the same level by dumping unwanted gravels and stones in the land of the Respondents and also attempting to damage the coconut trees standing in the ridges of the lands and hence the Respondents have resisted the act of the Petitioners. Infact, the Inspector of Police, Thammampatti Police Station had advised the Petitioners not to take the law into their own hands and not to indulge in any unlawful activities in the suit locality. It is further stated that, the Respondents are law abiding citizens and they would not go against the order of this court at any point of time and on the other hand, the petitioners would take the law into their own hands and do all such atrocities in the rest of the patta lands apart from the cart track and hence prayed to dismiss the petition.

4. ***Now the point for consideration is; whether the petition filed by the Petitioners / Respondents / Defendant for police help is to be allowed or not?***

5. No oral and documentary evidence have been adduced by both the sides.

6. Heard both. Perused records.

7. The Petitioners / Respondents / Defendants have filed this petition seeking police help to give police protection to the petitioners and their men while restoring the cart track ran in Survey No. 45/1B and 52/5C of Thammampatti Village as per the order dt. 20.06.2022 passed by this this court in I.A. No. 2/2021 in the above suit. Vide order dt. 20.06.2022, passed in I.A. No. 2/2021, this court granted an order of temporary injunction against the Petitioners herein from interfering with the Respondents' peaceful possession and enjoyment of the suit properties except the cart track that ran in Survey No. 45/1B and 52/5C and also directed the Respondents herein to restore the cart track into its old position and if the Respondents failed to do so, permitted the Petitioners herein to restore the cart track at their cost.

8. Now it is the contention of the Petitioners herein that, as per the order of this court, since the Respondents herein have not restored the cart track, while the Petitioners herein have attempted to restore the cart track, the Respondents are preventing them and hence filed this petition for police help while restoring the cart track. The Petitioners herein have also filed an application in I.A. No. 6/2021 in the above I.A. No. 2/2021 for appointment of Advocate Commissioner to note down the existence of the cart track and its demolished

portion. This court has also appointed Advocate Mr. T. Subbarayan as Advocate Commissioner. The learned Advocate Commissioner has also inspected the properties and filed his report and plan and the said petition was also closed.

9. Now, from the facts and circumstances of the case, and in order to avoid further litigations between the parties, it is just and necessary to order for police help while restoring the cart track by the Petitioners herein. However, such restoration of the cart track by the Petitioners shall take place in the presence of the Advocate Commissioner who was already appointed in I.A. No. 6/2021 and the Inspector of Police, Thammampatti Police Station or his subordinate officers. Hence, warrant will be once again re-issued to the said Advocate Commissioner, who shall monitor the restoration of the cart track by the Petitioners as per the order of this court in I.A. No. 2/2021.

10. In the counter filed in this petition, it has been stated that, the lands of the Respondents / Plaintiffs are lower than that of the lands situated on the northern side. Therefore, the Petitioners shall ensure that, while restoring the cart track, they shall not dump unwanted gravels in the lands of the Respondents / Plaintiffs. The Petitioners shall also ensure that the cart track is restored without causing any damage to the standing crops, coconut trees existing in the patta lands of the Respondents. The Petitioners shall also ensure that, at the time of restoring the cart track, except the labourers, Petitioners, Respondents and Advocate Commissioner, unnecessary gatherings shall not take place. The learned Advocate Commissioner shall ensure that the cart track is restored as per the order in I.A. No. 2/2021 in a peaceful manner by complying the above directions.

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11. The Petitioners herein are directed to pay a sum of Rs.7,000/- to the Advocate Commissioner towards remuneration. Issue letter to the Deputy Superintendent of Police, Attur and the Inspector of Police, Thammampatti Police Station. On these directions, this petition is allowed. Warrant will be reissued to the Advocate Commissioner on filing memo for payment of remuneration. The parties shall bear their own costs.

IN THE RESULT, the petition filed by the Petitioners / Respondents / Defendants for Police help is allowed and thereby, the Inspector of Police, Thammampatti Police Station and his subordinates are directed to provide Police help to the Petitioners while restoring the cart track that ran in Survey No. 45/1B and 52/5C in the presence of the learned Advocate Commissioner. While restoring the cart track, the Petitioners shall not cause and damage to the crops and trees that are existing in the other patta lands of the Respondents. The Petitioner shall also ensure that, while restoring the cart track, they shall not dump unwanted gravels in the lands of the Respondents. The learned Advocate Commissioner shall monitor the restoration of the cart track in a peaceful manner without causing any damage to the lands and trees of the Respondents as stated above. Warrant will be re-issued to the Advocate Commissioner on filing memo for payment of remuneration. No costs.

This order is typed by me in my Laptop, corrected and pronounced by me in the open court on this the 1st day of November 2022.

(Sd/- G. Yuvaraj)

Principal District Munsif,

Attur.

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Annexure : Nil

(Sd/- . G. Yuvaraj)
Principal District Munsif,
Attur.

P.D.M. Court, Attur.
DRAFT / FAIR ORDER
in I.A. No. 13/2022 in I.A. No. 2/2021
in O.S. No. 213/2021
Dated : 01.11.2022