

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.08.2015

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.13567 and 15475 of 2015

Goenka Infrastructures Pvt. Ltd.

222, Fountain Plaza,
Pantheon Road, Egmore,
Chennai-8

by its authorised signatory Petitioner in both Crl.OPs

Vs

1.The Superintendent of Police,
Kancheepuram.

2.The Inspector of Police,
Padalam Police Station,
Maduranthakam Taluk,
Kancheepuram District.

.... Respondents in both Crl.OPs

Crl.OP.No.13567 of 2015 : Criminal Original Petition filed under
Section 482 of Cr.P.C., praying to direct the 2nd respondent to
register FIR on the petitioner's complaint dated 13.02.2015.

Crl.OP.No.15475 of 2015 : Criminal Original Petition filed under
Section 482 of Cr.P.C., praying to direct the police to cause
further investigation into the petitioner's complaint dated
13.02.2015.

For Petitioner : M/s.Shanmugha Associates
in both Crl.OPs

For Respondents : Mr.C.Emalias, Addl. Public Prosecutor
in both Crl.OPs

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COMMON ORDER

Crl.OP.No.13567 of 2015 has been filed to direct the
2nd respondent to register FIR on the petitioner's complaint dated
13.02.2015 and Crl.OP.No.15475 of 2015 has been filed to direct the
police to cause further investigation into the petitioner's
complaint dated 13.02.2015.

2. Heard the learned counsel for the petitioner; learned
Additional Public Prosecutor for the respondents and perused the
materials placed on record.

3. It is the case of the petitioner that he had purchased the property in question under the Securitisation And Reconstruction of Financial Assets and Enforcement Security Interest Act, 2002 [SARFAESI] by way of a sale certificate dated 22.10.2009 issued by the Karnataka Bank Ltd from one Muthu Flour Mills Pvt. Ltd. who was not able to repay the loan. In the sale certificate, it is clearly stated as follows:

"... together with the RCC Building constructed in 14260 Sq.feet, ACC Building in 630 Sq.feet and all fixtures, fittings thereon with compound wall; machineries : Nil"

4. While so, one Suguna who is connected with Muthu Flour Mills is alleged to have demolished the part of the compound wall on 13.02.2015 using Poclain machine and immediately, the petitioner lodged a complaint to the respondent police. The respondent police conducted enquiry and a Closure Report dated 09.06.2015 has been furnished, on the ground that the said Suguna had only measured her property, that is adjacent to the property of the petitioner and that, the dispute with regard to the compound wall should have to be resolved only before the Civil Court.

5. Aggrieved by the Closure Report dated 09.06.2015, the petitioner has filed Crl.OP.No.15475 of 2015 for further investigation of the complaint dated 13.02.2015 by the respondent police.

6. This Court carefully perused the documents produced by the learned counsel for the petitioner.

7. The Inspector of Police, Padalam Police Station has filed a counter, wherein, in paragraph No.4, it is stated as follows:

"4. ... Further, during the course of enquiry, it came to light that no one was threatened the security guard on 13.02.2015 as alleged by the petitioners company. As the whole dispute is purely civil in nature, both the parties have been advised to seek remedy either through approaching the revenue officials or through the court of Law. I have conducted fair enquiry on the complaint lodged by the petitioners company without any bias and closed the CSR vide 43/2015 as the matter is pertaining to a civil dispute."

8. It is true that police have no right to interfere in matters concerning title to property and those aspects have to be left to be decided by the Civil Court. In this case, according to the petitioner, he had purchased the property in bank auction along with compound wall.

9. Learned counsel for the petitioner also produced photographs showing that the compound wall was demolished by using Poclain machine.

10. Neither in the Closure Report dated 09.06.2015 nor in the counter filed by the respondent police, there is categorical assertion that the compound wall was not demolished on 13.02.2015 as alleged by the petitioner/complainant. The opposite party has the right to have the lands measured with the help of the revenue authorities, there may not be any grievance for anybody. But if the compound wall has been demolished, then, it does require a proper enquiry by the police as that would lead to further law and order problems. Under Section 149 Cr.P.C, it is the duty of the police to interpose to prevent the commission of an offence.

11. Since this Court is not satisfied with the Closure Report dated 09.06.2015, this Court directs the Deputy Superintendent of Police, Madurantagam to conduct enquiry as to whether the compound wall was in fact demolished on 13.02.2015 by Suguna and others as alleged by the petitioner and if so, the parties shall be directed to maintain status quo and take action in accordance with law.

With the above direction, this petition is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1.The Superintendent of Police,
Kancheepuram.

2.The Deputy Superintendent of Police, Madurantagam,

3.The Inspector of Police,
Padalam Police Station,
Maduranthakam Taluk,
Kancheepuram District.

4.The Public Prosecutor,
High Court, Madras.

+2 ccs to M/s. Shanmuga Associates, Advocate, sr.46398 (10/9/2015)

CRL.OP.No.13567 and 15475 of 2015

tej (co),
kra (4/9)