

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2015

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.24897 of 2015

1. Mathew Thomas
2. Marykutty Thomas ... Petitioners

Vs

1. The Inspector of Police,
SIPCOT Police Station,
Hosur, Krishnagiri District.
2. District Superintendent of Police,
District Police Office,
Krishnagiri District,
Krishnagiri. ... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking a direction to the first respondent to register FIR based on the petitioner's complaint dated 20.02.2015 filed before the second respondent and issue a direction to the second respondent to report to this Court within a stipulated time fixed by this court.

For Petitioner : Mr.Nisha Bineesh

For Respondents : Mr.C.Emalias
Additional Public Prosecutor

सत्यमेव जयते
O R D E R

The present criminal original petition has been filed to direct to the first respondent to register FIR based on the petitioner's complaint dated 20.02.2015 filed before the second respondent and issue a direction to the second respondent to report to this Court within a stipulated time fixed by this court.

2. The petitioners are the absolute owners of the property in Survey No.24/1 (Sub divided into 24/1 C and 24/1 B) of Zuzuvadi Taraf, Anumepally Village, Hosur, Krishnagiri District to an extent of 68 cents and 50 cents respectively. In 1990, the said properties were re-surveyed and thereby Survey

No.24/1 has been replaced by 24/1 A, B, C. In the year 2001, one V.S.Ravi and his benami G.C.Ramasamy tried to trespass into the land of the petitioner. With the interference of the SIPCOT Police, based on the documents produced by the petitioners, they withdrew the claim. To avoid further claim the petitioners filed a suit for declaration of right, title and possession and also for injunction in O.S.No.223 of 2011 before the Munsif Court, Hosur. The said suit was decreed in favour of the petitioners and no appeal has been preferred as against the said Judgement and decree.

3. In November 2011, the security cum care taker of the above land employed by the petitioners died. Taking advantage of the said situation, again the said Ravi and G.C.Ramasamy with the intention to grab the land, trespassed into the land. Immediately, the petitioner filed a complaint before the SIPCOT Police Station. Thereafter, as the first petitioner suffered a massive heart attack and was under treatment, the petitioners were not in a position to pursue the complaint and counter the atrocities of the above said persons. The said V.S.Ravi and G.C.Ramaswamy also managed to obtain a joint patta in the name of G.C.Ramaswamy from the Tahsildar, Hosur by manipulation of records. After that, the said V.S.Ravi clandestinely approached this court and obtained order by misleading this court by filing false affidavits and false statements and as per the directions of this court, a FIR in Crime No.435/12 was registered implicating the petitioners under sections 147, 294(b), 506(b) and 402 IPC.

4. The petitioner has challenged said FIR before this Court in CrI.O.P.No.5433 of 2013. On the strength of the said FIR, the said V.S.Ravi and G.C.Ramaswamy trespassed into the land of the petitioners and started demarking the land and also proceeded with illegal constructions. In this regard, the petitioners lodged various complaints before the SIPCOT Police Station. But no action was taken by the police on those complaints. The inaction on the part of the first respondent forced the petitioners to approach this court in CrI.O.P.Nos.21181, 21182, 22336 and 22337 of 2013, wherein the said V.S.Ravi and G.C.Ramasamy were also made parties besides the first and second respondents. This Court by a Common Order dated 18.02.2014, directed the first respondent to register a case on the basis of the petitioners complaint dated 25.05.2013. Though the petitioners were informed that a case was registered on the direction given by this Court, the petitioners were not given a copy of the FIR and they were also not informed of the progress of investigation in this case. It is further stated by the petitioner that the issuance of Joint Patta to the said V.S.Ravi and C.G.Ramasamy was challenged in appeal before the Sub Collector, Hosur, who after hearing all the parties and verifying the revenue records cancelled the Joint patta issued

in favour of G.C.Ramaswamy on 12.7.2013 and this was upheld by the District Revenue Officer, Krishnagiri, by his Order dated 18.06.2015. The petition filed by the said G.C.Ramasamy to set aside the decree in favour of the petitioners was rejected by the Munsif Court on 14.07.2014. Even after that, the said Ravi has trespassed into the land again and started illegal activities including making superstructures and cultivation. Though the petitioner tried to enter into the land, he was resisted by the goondas engaged by the said Ravi. Hence the petitioners had lodged a complaint dated 20.2.2015. But, no action was taken by the first respondent till date. Hence, the present criminal original petition has been filed.

5. The learned Additional Public Prosecutor submitted that inspite of repeated reminders sent to the respondents, they have not given any instructions so far in this matter.

6. In view of the submissions made on either side, this Court is constrained to pass the following order :

7. The first respondent is directed to conduct enquiry on the complaint given by the petitioner dated 20.02.2015 and upon enquiry, if materials are gathered indicating commission of any cognizable offence, he is directed to proceed further in accordance with law, as early as possible. If no prima facie case is made out for registering the FIR, the respondent is directed to pass an appropriate order on the said complaint.

8. This criminal original petition is disposed of accordingly.

vrc

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Inspector of Police,
SIPCOT Police Station,
Hosur, Krishnagiri District.
2. District Superintendent of Police,
District Police Office,
Krishnagiri District,
Krishnagiri.
3. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.N.Inbarajan, Advocate SR 63849

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