

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2015

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.25255 of 2015

N.Krishnamoorthy

... Petitioner

Vs

1. The Superintendent of Police,
Office of Superintendent of Police,
Namakkal.
 2. The Deputy Superintendent of Police,
DSP Office, Tiruchengode,
Namakkal District.
 3. The Inspector of Police,
Tiruchengode Town Police Station,
Tiruchengode,
Namakkal District.
 4. S.Rajamani,
S/o Late M.Semburaj
(R4 impleaded as per Order dated 27.10.2015
made in M.P.No.1 of 2015)
- Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondent police 1 to 3, to provide adequate police protection to the life of the petitioner as well as to fencing the entire property of an extent of 1605.50 sq.ft. in TSLR No.13/1, Block-10, Ward-F, Tiruchengode Village, Tiruchengode Town.

For Petitioner : Mr.V.Raghavachari
for MA.P.Thangavel

For respondents : Mr.C.Emalias,
Additional Public Prosecutor
for R1 to R3.
Mr.K.Sasindran for R4

O R D E R

This petition has been filed to direct the 1st, 2nd and 3rd respondents to provide adequate police protection to the life of the petitioner as well as for fencing the entire property of the petitioner, measuring an extent of 1605.50 sq.ft. in TSLR No.13/1, Block-10, Ward-F, Tiruchengode Village, Tiruchengode Town, .

2. The petitioner herein is a retired Manager of Indian Overseas Bank. He has inherited the subject property of an extent of 1605.50 sq.ft. in TSLR No.13/1, in Block-10, Ward No.F, Tiruchengode Village and Town, Namakkal District, from his father, namely, R.Natesan. The said property was in enjoyment without any hindrance. The revenue records were also standing in his name and he was regularly paying the kist. While so, during the year 2014, some third parties were trying to interfere with the petitioner's peaceful possession and enjoyment of the property. Hence, the petitioner intended to fence the land in order to protect his property. When he made an attempt to fence the property, he was threatened by the strangers with dire consequences. Therefore, he made a complaint with the 3rd respondent police . The 3rd respondent police, refused to receive the complaint. Hence, the petitioner sent a detailed complaint dated 04.06.2014 through registered post. The said complaint was also returned on 07.06.2015 with an postal endorsement "door locked and refused to receive". Now in this situation, the petitioner and his daughter executed a release deed dated 31.12.2014 in favour of his son in respect of the said property. The same was registered on the file of Sub-Registrar, Tiruchengode. Thereafter, his son executed a General Power of Attorney in his favour to deal with the property. Since, the above property is a vacant land, the petitioner wants to fence it to safeguard from illegal encroachment by third parties. Hence, left with no other option, the petitioner approached this Court to direct the respondent police to provide adequate police protection to the life of the petitioner as well as to protect the property.

3. When the matter came up on 27.10.2015, this Court has directed the petitioner to implead one S.Rajamani as a party to this petition. Accordingly, the said S.Rajamani was impleaded as the 4th respondent to the petition and he has also filed the counter.

4. Opposing the prayer of the petitioner, the 4th respondent has stated that originally, the petitioner and his family members owned land in S.F.189. The petitioner has formed a lay out which was approved by the Director of Town and Country Planning, Madras. While forming the lay out, the petitioner had donated the sites(land) reserved for Roads and Parks in favour of the Commissioner, Tiruchengode Municipality. Subsequently, he has sold the plots to third parties. In fact, he has alienated the entire property to third parties and donated the remaining portion to Thiruchengode Municipality and the same was utilized by the Municipality. In fact, the Municipality had laid pucca road in the donated lands. In order to grab the land which were donated to Municipality, the petitioner created a false document and registered a released deed on 31.12.2014 in respect of T.L.S.No.13/1 which was part of S.F.No.189 and which was converted as road. The general public including the petitioner are using the road from the year 1999. In fact, a request was made by the son to issue patta in respect of T.S.L.R.No.13/1, based on the release deed. But the Tahsildar, Thiruchengode, found that the land in T.S.L.R.No.13/1 is actually as road and park and therefore, rejected his request on 03.09.2015. Thus, he sought for dismissal of this petition.

5. The 4th respondent is mainly objecting the request of the petitioner on the ground that under the guise of fencing the land, the petitioner is trying to grab the land donated to the Municipality which was subsequently, converted as a road. This submission of the learned counsel of the 4th respondent is vehemently denied by the learned counsel for the petitioner stating that the petitioner is seeking protection only to fence his land and not the road.

6. Heard the learned Additional Public Prosecutor appearing for the respondents 1 to 3.

7. In view of the submission made, this Court is constrained to pass the following order.

i) The petitioner is directed to give a representation to the 2nd respondent within a period of one week from the date of receipt of a copy of this order with regard to providing police protection.

ii) On receipt of the same, the 2nd respondent is directed to conduct an enquiry by affording an opportunity of hearing to the parties concerned and pass appropriate orders purely on merits and in accordance with law.

iii) In the event, the 2nd respondent comes to the conclusion that there is some dispute over the property in question to be fenced, he can advise the parties to initiate appropriate legal proceedings in manner known to law.

8. The criminal original petition is disposed of accordingly.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Superintendent of Police,
Office of Superintendent of Police,
Namakkal.
2. The Deputy Superintendent of Police,
DSP Office, Tiruchengode,
Namakkal District.
3. The Inspector of Police,
Tiruchengode Town Police Station,
Tiruchengode, Namakkal District.
4. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.MA.P.Thangavel, Advocate, S.R.No.64430
+1cc to Mr.K.Sasindran, Advocate, S.R.No.64419

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RSI (CO)
CA(11/12/2015)

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