

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.Nos.29128 and 29129 of 2015

T.Gowrishankar

... Petitioner in both Crl.O.Ps.

..Vs..

The Inspector of Police,
Arcot Town Police Station,
Arcot, Vellore District.

.... Respondent in both
Crl.O.Ps.

Crl.O.P.No.29128 of 2015: Criminal Original Petition filed under Section 482 Cr.P.C. seeking a direction to the respondent to provide police aid so as to carry on construction activity on the petitioner's property at Door No.56/122, 56/123 and 56/124 at Jeevanandam Salai, Arcot 632 503 concerned in petitioner's complaint dated 18.10.2014 in CSR No.402/2014 dated 19.10.2014.

Crl.O.P.No.29129 of 2015: Criminal Original Petition filed under Section 482 Cr.P.C. seeking a direction to the respondent to register the petitioner's complaint dated 18.10.2014 treated as CSR No.402/2014 dated 19.10.2014 and investigate the same and file final report in accordance with law.

For Petitioner in both Crl.O.Ps. : Mr.N.S.Sivakumar

For Respondent in both Crl.O.Ps. : Mr.C.Emalias,
Addl. Public Prosecutor

COMMON ORDER

As the issue involved in both the Criminal Original Petitions is one and the same, the Petitions are taken up for disposal by a common order.

2. One Mr.T.Gowrishankar is the petitioner in both the Criminal Original Petitions. He has filed Crl.O.P.No.29128 of 2015 seeking a direction to the respondent to provide police aid vide his complaint dated 18.10.2014 in CSR No.402/2014 dated 19.10.2014. so as to carry on construction activity in his property at Door No.56/122, 56/123 and 56/124 at Jeevanandam Salai, Arcot 632 503. In Crl.O.P.No.29129 of 2015, the petitioner has sought for a direction to the respondent to register his complaint dated 18.10.2014 treated as CSR

No.402/2014 dated 19.10.2014, investigate the same and file final report in accordance with law.

3. In the affidavit accompanying these petitions, the petitioner has stated that the property bearing Door Nos.56/122, 56/123 and 124 at Jeevanandam Street, Arcot Town, Vellore District comprised in T.S.Nos.62, 63/1, 64 was partitioned in the year 1988 under a Registered Partition Deed dated 04.03.1988 (Doc No.475, SRO, Arcot) among his father and his brothers into five equal shares. The property situated at Door No.56/123 was allotted to his father and Door No.56/122 and 56/124 was obtained under a Will executed by his brother. Behind that property, a vacant site was purchased by his father in the year 2000. One of the other two shares behind the petitioner's property was allotted to his paternal uncle under the aforesaid partition deed and the same was sold out to one Mr.Srinivasan by way of a Registered Sale Deed of the year 2006. According to the petitioner, he is enjoying all the three portions of the property exclusively by way of respective deed of registered partition dated 04.03.1988 (Doc No.475, SRO, Arcot) and relinquishment deed dated 26.04.2006 executed by his mother and sisters vide Doc.No.2079, SRO, Arcot and thereby effected water supply and electricity service connections and also assessed to property tax, etc in his name. The petitioner had obtained approval for demolition and reconstruction of the abovesaid property from the local authority in the year 2013.

4. While so, on 17.10.2014, the purchaser of the rear portion of the property namely, Mr.Srinivasan, his son Mr.Madhan Kumar, the 5th shareholder namely, Mr.Kumarasamy, Mr.Ganapathy and Mr.Loganathan, who is the 3rd shareholder of the aforesaid property along with their henchmen, all of a sudden came with deadly weapons with a criminal intention to grab the property and threatened the petitioner and his elder sister Tmt.T.Hemamalini to sell away the front portion of the property so as to extend their property in one stretch, failing which there will be danger to life and limb. Unable to overcome the abovesaid persons' money and muscle power, the petitioner shifted his residence to Chittoor District. In the meantime, they brutally demolished the front portion of the property in Door No.56/124, in which the petitioner had put up a lathe shop and thereby caused severe loss to the petitioner's property and business, by destroying the three phase electricity meter and took away the furnitures including cash of a sum of Rs.4 lakhs. In this regard, the petitioner lodged a complaint on 18.10.2014 to the respondent police, to which CSR No.402 of 2014 was assigned on 19.10.2014.

5. It is further stated by the petitioner that prior to the aforesaid wrong doing, the said Mr.Srinivasan filed a precautionary mischievous Civil Suit in O.S.No.448 of 2013 on the file of the Sub-Court, Ranipet praying for injunction restraining the petitioner from putting up any construction in the front

portion of the property and sought declaration to declare the frontage portion to be left as passage to his property and he also obtained an ex parte interim injunction in I.A.No.661 of 2013 on 19.12.2013 and the said interim order was extended only upto 18.07.2014. The petitioner would also state that the said interim injunction is not operative now and that the said Mr.Srinivasan remained absent throughout the proceedings thereafter and he has no cause of action to make out a case against the petitioner. Despite several requests to the respondent police, since no action was taken on his complaint, the petitioner, submitted a representation dated 25.10.2014 to the District Superintendent of Police.

6. It is the case of the petitioner that he is facing constant grave threat whenever he used to visit his property. There is no restriction order from the Civil Court to carry on construction activity in the land in question. The petitioner is also possessing approval duly sanctioned by the local authority after verification of title and other documentary evidence to carry and complete the construction within three years from the date of approval, i.e from 11.09.2013 till 10.09.2016. Though the petitioner is ready with financial resource, due to the highhandedness of the proposed accused persons, the construction activity of the petitioner is hampered. Since no action is taken on his complaint, having no other alternative, the petitioner has come up with the present Criminal Original Petitions seeking police protection to carry on construction activity in the aforementioned property and for a direction to the respondent police to register his complaint dated 18.10.2014.

7. Heard the learned counsel for the petitioner as also the learned Additional Public Prosecutor appearing for the respondent.

8. Taking note of the submissions made by the learned counsel on either side, this Court feels it appropriate to direct the respondent to conduct an enquiry on the petitioner's complaint and in the course of investigation, if any cognizable offence is made out, he is directed to pass appropriate orders in accordance with law, as early as possible. As regards the relief of police protection sought by the petitioner, the respondent police is directed to consider the petitioner's representation dated 18.10.2014 by affording an opportunity of personal hearing to the petitioner and other parties and pass appropriate orders on merits. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner.

These Criminal Original Petitions are disposed of accordingly.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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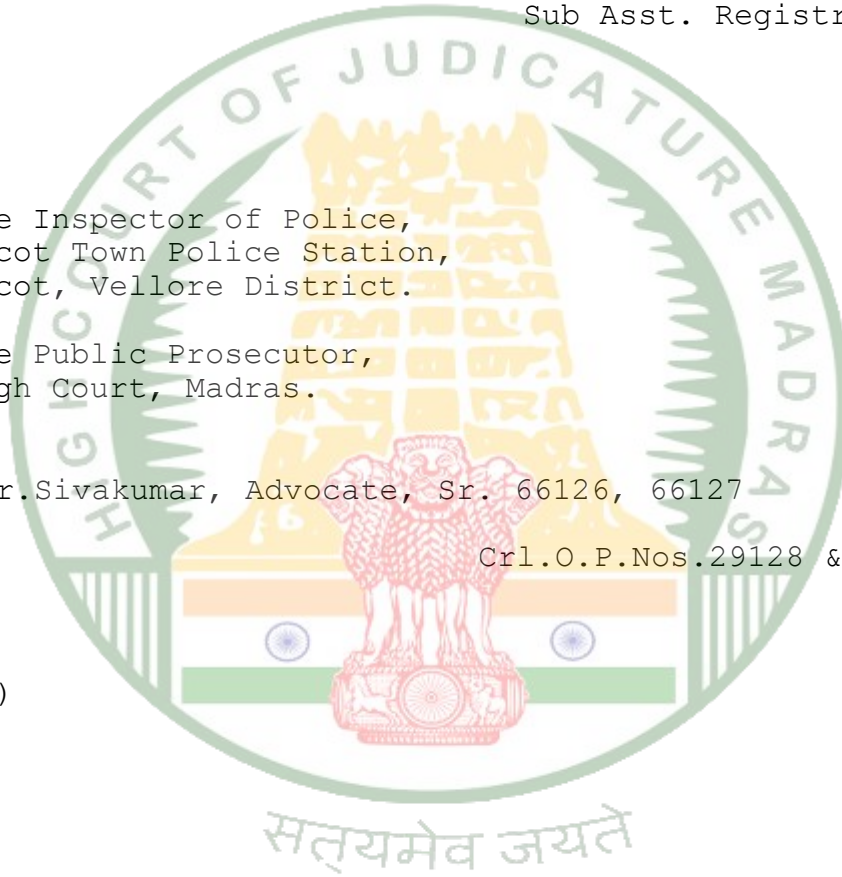
To :

1. The Inspector of Police,
Arcot Town Police Station,
Arcot, Vellore District.
2. The Public Prosecutor,
High Court, Madras.

2 ccs Mr.Sivakumar, Advocate, Sr. 66126, 66127

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LRS (CO)
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