

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2015

CORAM:

THE HON'BLE Mr.JUSTICE R.SUBBIAH

Cr1.O.P.No.29262 of 2015

1.Z.Ameenabi
2.Z.Noorulla
3.Z.Anwardeen
4.Z.Badrudeen

.... Petitioners

Vs.

State rep by,
Inspector of Police,
Virinchipuram Police Station,
Virinchipuram,
Vellore District. Respondent

Prayer :

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to direct the respondent herein to provide adequate police protection to the petitioners herein to enjoy the properties situated in Survey No.141/3 (Patta No.279), measuring an extent of 0.82 cents in Karugamputhur Hajipura Village, Vellore Taluk and District.

For Petitioners: Mr.T.Dhanyakumar

For Respondent : Mr.C.Emalias
Additional Public Prosecutor

ORDER

This petition is filed praying for a direction to the respondent herein to provide adequate police protection to the petitioners herein to enjoy the properties situated in Survey No.141/3 (Patta No.279), measuring an extent of 0.82 cents in Karugamputhur Hajipura Village, Vellore Taluk and District.

2.In the petition it is stated that the wet Survey Nos.125/1, 125/2, 125/4 and dry lands bearing Survey Nos.141/1A and 141/3 situated in Karugamputhur Hajipura Village, Vellore Taluk and District are the personal inam properties gifted by Nawab Abdul Khan, the then Nawab of Vellore Fort to the ancestor of the petitioners namely, Haji Abdulla Sha Khadhari in the 17th century. After his demise, the descendants of the family

members constructed a Tomb over a portion of the said land, which is purely a family tomb and it is still in existence under the exclusive control of the petitioners and the members of their family. It is further stated that the petitioners have been regularly performing the Urs (anniversary of death every year) and the other ceremonies to honour the ancestor for more than 300 years from generation to generation. The descendants of Haji Abdulla Sha Khadhari are enjoying the said lands without any hindrance.

3.It is further stated that Zahiruddin, the father of the petitioners herein is the legal heir of the original ancestor Haji Abdulla Sha Khadhari and he died on 28.08.2013 leaving behind the petitioners and the petitioners are the absolute owners and are in enjoyment of the properties. It is further stated that O.S.No.942 of 1967 filed on the file of the District Munsif Court, Vellore District also established the legal heirship through documents. While so, the Tamil Nadu Wakf Board made a false claim over the aforesaid land by filing suits in O.S.Nos.942, 996, 1117 and 1156 of 1967 on the file of the District Munsif Court, Vellore and the suits filed by the Tamil Nadu Wakf Board were dismissed on 12.03.1969. Thereafter, the Tamil Nadu Wakf Board filed appeals in A.S.Nos.207, 208, 209, 332 and 347 of 1969 before the District Court of North Arcot at Vellore and the appeals were also dismissed and hence, the claim of the Tamil Nadu Wakf Board has been finally negatived.

4.It is further stated that Zahiruddin, the father of the petitioners filed O.S.No.340 of 1981 on the file of the District Munsif Court, Vellore for the relief of declaration and other reliefs since the Tamil Nadu Wakf Board had erroneously obtained decree against one Syed Ghouse Saheb in O.S.No.1097 of 1967 relating to the property situated in S.No.141/1 measuring an extent of 6.55 acres in Karugamputhur Village, Vellore Taluk and District and the suit was decreed by the trial court on 29.04.1986 and the A.S.No.47 of 1987 filed on the file of Additional Sub Court, Vellore by the Tamil Nadu Wakf Board was dismissed on 16.08.1989 and the S.A.No.1766 of 1990 filed before this Court by the Tamil Nadu Wakf Board was also dismissed on 03.07.2002. Thus, it clearly proves the title and possession of the petitioners and their predecessors in title.

5.It is further stated that the Tamil Nadu Wakf Board by an order dated 30.09.2015 held that the properties are the properties of the petitioners. Whileso, now, one S.Abdul Shafi, who was appointed as Muthavalli by the Chief Executive Officer of the Tamil Nadu Wakf Board is giving disturbance to the petitioners with regard to their enjoyment of the property situated in Survey No.141/3 (Patta No.279), measuring an extent of 0.82 cents in Karugamputhur Hajipura Village, Vellore Taluk and District. Hence, the petitioners lodged a complaint with

the respondent police requesting to provide adequate police protection. Though the complaint was received and C.S.R.No.198 of 2015 was assigned, till date no action has been taken. Hence, this petition.

6.Heard the learned Additional Public Prosecutor.

7.In view of the submissions made on either side, the respondent police is directed to conduct enquiry on the C.S.R.No.198 of 2015 and pass appropriate orders with regard to providing of police protection to the petitioners in enjoying the properties situated in Survey No.141/3 (Patta No.279), measuring an extent of 0.82 cents in Karugamputhur Hajipura Village, Vellore Taluk and District, after affording opportunity of personal hearing to the petitioners as well as to all the necessary parties, within a period of three weeks from the date of receipt of a copy of this order.

8.With the above observation, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Virinchipuram Police Station,
Virinchipuram,
Vellore District.

2.The Public Prosecutor
High Court, Madras.

+1 cc to Mr.T.Dhanyakumar, Advocate, sr.66502

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