

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

CrI.O.P.No.29860 of 2015

Arulmigu Mahaliamman &
Pillayar Temple for Kannada
Dasa Balingigar,
rep.by its Managing Trustee
C.V.Gnanasekaran,
No.520, Oppanakkara Street,
Vishal Street Junction,
Coimbatore District Petitioner

Vs

1. The Commissioner of Police,
Office of the Police Commissioner,
Coimbatore-641 018.
2. The Inspector of Police,
B-1 Police Station,
Coimbatore.
3. Friends Auto Stand,
rep.by its President
D.Nagaraj
No.26/76 Gandhi Street,
Perur Main Road,
Coimbatore-641 010 ... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the Commissioner of Police, Coimbatore, the first respondent herein, and Inspector of Police B-1 Police Station, Coimbatore, the second respondent herein, to take appropriate action against the 3rd respondent and prevent them from interfering, trespassing and illegally encroaching into the temple properties belonging to the petitioner, namely Arulmigu Mahaliamman and Pillayar Temple for Kannada Dasa Balingigar.

For Petitioner : Mr.S.S.Mathivanan

For respondents : Mr.C.Emalias,
Addl. Public Prosecutor
for R.1 and R.2

ORDER

The present criminal original petition has been filed seeking a direction to the respondents 1 and 2 to take appropriate action against the third respondent and prevent them from interfering, trespassing and illegally encroaching into the temple properties belonging to the petitioner, namely Arulmigu Mahaliyamman and Pillayar Temple for Kannada Dasa Balingigar.

2. It is the case of the petitioner that the properties measuring to an extent of 612 sq.ft., Arulmigu Mahaliyamman Temple in S.F.No.1328 measuring 502 sq.ft. and Pillayar Kovil with trees in S.F.No.1329 measuring 110 sq.ft. at Oppanakara Street, Coimbatore absolutely belong to the private trust viz., Kannada Dasa Balingigar. The said temple was formed by virtue of a grant issued by the Government of Tamil Nadu in the year 1824 and from that year, the said properties belong to the petitioner community viz., Kannada Dasa Balingigar Community and their welfare. In the year 1989, for better administration of the said temple, the trust has filed an application to scheme the trust before the Deputy Commissioner, H.R. & C.E. Administration Department, Coimbatore and the same was ordered on 6.1.1989. While so, in the year 2009, the third respondent formed an auto stand viz., Friends Auto Stand represented by its President D.Nagaraj, adjacent to the temple properties. They started to interfere with the day to day affairs of the trust and also maintenance of the temple. On 29.5.2013, the petitioner started renovating the temple by collecting donations from their community people. While so, the third respondent was trying to encroach the temple properties and also disturbing the petitioner from doing their duties. On 15.9.2013, the third respondent along with rowdy elements, obstructed the trustees as well as the workers from doing renovation work. Hence, the petitioner filed a suit in O.S.No.2797 of 2013 on the file of the District Munsif Court, Coimbatore for a judgment and decree restraining the third respondent from in any way interfering with their peaceful possession and enjoyment of the temple properties. The said suit was decreed in favour of the petitioner on 10.11.2014. In spite of the same, the third respondent continues to trespass and encroach the suit properties. Hence, the petitioner lodged a complaint with the respondent police on 7.9.2015. But, so far, no action was taken on the said complaint. Hence, the present petition.

3. Learned Additional Public Prosecutor submitted that since the petitioner is having a valid decree in their favour, they have to work out their remedy before the civil Court and the respondent police cannot interfere with the same. Thus, he opposed for grant of such direction to the respondent police.

4. I find some force in the said submission made by the learned Additional Public Prosecutor. Since the petitioner is having a valid decree in their favour, they have to work out their remedy by way of filing appropriate execution petition before the civil Court. Further, it was not made clear as to whether the said decree had reached finality or not. Therefore, at this juncture, this Court cannot give any positive direction as prayed for by the petitioner and the petitioner is at liberty to work out their remedy in a manner know to law.

5. In the result, the criminal original petition is dismissed.

sbi

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Commissioner of Police,
Office of the Police Commissioner,
Coimbatore-641 018
2. The Inspector of Police,
B-1 Police Station,
Coimbatore
3. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.S.S.Mathivanan, Advocate SR 68824

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