

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP Nos.5212 and 5213 of 2015

K.Shanmughavel Mudaliar .. Petitioner in both Crl.O.Ps.
Vs

1. The Deputy Commissioner of Police
St.Thomas Mount, Chennai 16.

2. The Assistant Commissioner of Police
Pallavaram, Chennai 43

3. The Inspector of Police,
S.6, Shankar Nagar Police Station
Pozhichallur, Chennai 75 .. Respondents in both Crl.O.Ps.

Prayer in Crl.O.P.No.5212/2015:- Criminal Original Petition filed under Section 482 Cr.P.C., to pass an order directing the 3rd respondent to act upon the complaint dated 14/02/2015 given by the petitioner, investigate the same and consequently file a final report.

Prayer in Crl.O.P.No.5213/2015:- Criminal Original Petition filed under Section 482 Cr.P.C., to pass an order directing the 3rd Respondent to provide police protection to the petitioner for the enforcement of appropriate Civil Court decree made in O.S.No.118 of 2009 DMC Alandur in respect of property in S.Nos.90 & 135 in Pozhichallur Village, Alandur Taluk, Kancheepupram District, Chennai by considering petitioner's Complaint dated 09/08/2014*.
(*amended as per order dated 13.4.2015 in M.P.No.1 of 2015)

For Petitioner :Mr.D.Baskar

For Respondents :Mr.C.Emalias,

Additional Public Prosecutor

ORDER

The petitioner has filed these petitions seeking for a direction to the 3rd respondent police to act upon the complaint dated 14/02/2015 given by him, investigate the same and consequently file a final report and for a further direction to the 3rd Respondent to provide police protection to him for the enforcement of Civil Court decree made in O.S.No.118 of 2009 by the learned Additional District Munsif, Alandur in respect of property in S.Nos.90 & 135 in Pozhichallur Village, Alandur Taluk, Kancheepupram District, Chennai by considering his Complaint dated 09/08/2014.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police.

3. It is seen that this petitioner is a self-proclaimed God man, who is the Managing hereditary Trustee of Arulmighu Agastheeswarar Temple at Pozhichalur. He seems to have obtained an exparte decree in O.S.No.118 of 2009 on 5.11.2009 from the learned District Munsif at Alandur, arraying the State of Tamil Nadu, represented by the Secretary to Government, Tamil Development and Religious Endowment, Information Department, Fort St.George, Chennai, the Commissioner, Hindu, Religious, Charitable Endowment and Administration Department, Nungambakkam, Chennai 34 and the Joint Commissioner of Hindu Religious and Charitable Endowment Department, as parties to the suit. The suit has been decreed exparte in the following terms:

"1. It is declared that the plaintiff's temples situated in residential place Grama Natham (village site) in Survey No.210/2 private land properties is not coming under the purview of the HR & CE Act.

2. that the third defendant and their subordinates or any one claiming through or under them are hereby restrained by means of permanent injunction from conducting any enquiry initiate by the 3rd defendant against the plaintiff unless and until the character of institution is decided, the defendants cannot to exercise jurisdiction provision of H.R.& C.E.Act.

3. that the defendants or their men or agents or servants subordinates or any other persons are hereby restrained by means of permanent injunction from in any way interfering with the management and administration of Arulmigu Agastheeswarar Temple and allied Temples of the plaintiff as Managing Hereditary Trustee.

4. that the defendants or their men or agents or servants, subordinates or any other persons are hereby restrained by means of permanent injunction from in any way interfering in any way restricting or controlling the plaintiff in dealing his grama Natham properties and personal properties as Hereditary Trustee.

5. that the both parties do bear their own cost."

4. Armed with this decree, the petitioner now wants to construct a compound wall around certain lands, which is being objected to by various locals in the area, on account of which there were complaints and counter complaints launched before the respondent police. The respondent police have conducted a peace meeting in the presence of the warring groups and also in the presence of the officials of HR & CE Department. In the meeting, both parties appeared to have agreed that they will maintain status quo and not put up any further construction.

5. The learned counsel for the petitioner submitted that his client had signed the minutes of the peace meeting on 12.09.2014 with a caveat that he will abide by any orders of the Court. Therefore, the learned counsel submitted that since the petitioner has a valid decree, he should be permitted to put up the compound wall.

6. This Court is unable to countenance this argument, in view of the fact that the decree is of the year 2009 and in the year 2015, if a law and order problem arises, then it is the duty of the police to maintain peace in the area. Further, the complaint also does not disclose the commission of cognizable offence for the police to register the FIR. Under such circumstances, I am unable to persuade myself to grant the relief as prayed for by the petitioner.

7. Hence, these Criminal Original Petitions are dismissed with liberty to the petitioner to work out his remedies in the manner known to law before the Civil Court.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Deputy Commissioner of Police
St.Thomas Mount, Chennai 16.
 2. The Assistant Commissioner of Police
Pallavaram, Chennai 43
 3. The Inspector of Police,
S.6, Shankar Nagar Police Station
Pozhichallur, Chennai 75
 4. The Public Prosecutor,
High Court, Madras.
- +2 cc to Mr.D.Baskar, Advocate, sR.25682.

Vsn(co)
krd 11/6

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and 5213 of 2015