

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.06.2015

DELIVERED ON : 10.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.No.9814 of 2015

K.Karthickraja

...Petitioner

Vs

1.The Superintendent of Police
Namakkal District
Namakkal.

2.The Deputy Superintendent of Police
Namakkal District
Namakkal.

3.Inspector of Police,
Pellukuruchi Police Station
Pellukuruchi
Namakkal District.

4.M.Gowri Shankar

...Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to issue a direction directing the respondent police to provide police protection for harvesting sugarcane, banana tree and tapioca in the petitioner's property in S.f.No.336/2B, 336/2C, 336/4B, 336/5B, 336/6 at Belukurichi Village, Namakkal District total extent of 10.45 acre based on the complaint given by the petitioner dated 14.04.2015.

For Petitioner : Mr.S.Senthamil Selvan

For R1 to R3 : Mr.C.Emalias,
Additional Public Prosecutor

For R4 : Mr.B.Jawahar

ORDER

This petition has been filed to direct the respondent police to provide police protection for harvesting sugarcane, banana tree and tapioca in the petitioner's property in S.F.No.336/2B, 336/2C, 336/4B, 336/5B, 336/6 at Belukurichi Village, Namakkal District, based on the complaint given by the petitioner dated 14.04.2015.

2. Heard the learned counsel for the petitioner, the learned Additional Public Prosecutor appearing for the State and the learned counsel for the fourth respondent.

3. It is the case of the petitioner that, Gowri Shankar's [4th respondent] predecessor in interest appear to have obtained a decree in respect of S.No.338/2, 338/4, 336/2 and 336/5 of Belukurichi Village and K.Karthick Raja's [petitioner] predecessor is having title to the property in S.No.336/2B, 336/4B and 326/5B of the same village. It is the allegation of Karthick Raja that, Gowri Shankar is attempting to trespass into his lands for the purpose of harvesting the crops. Gowri Shankar [4th respondent] has filed a counter, wherein it is stated as follows in paragraphs 8, 9 and 10:

"8. It is submitted that the original survey number of 336/2, 336/4 and 336/5 were sub divided in the revenue records. As per the sub division the present survey number on eastern portion of "PONMLK" is 336/2B, 336/4B & 336/5B. The decree in the S.A.No.1298/1982 was passed on 29.06.1998.

9. It is submitted that the defendant in the above suit namely Sellappa Gounder sold his share lands in survey No.336/2 and 336/5 to other defendant Krishnan. In turn Krishnan sold it to his brother Muthu Gounder. In order to create encumbrance on the property the said Krishnan, Sellappa Gounder and Muthu Gounder colluded together and registered sale deed in respect of the above said survey numbers.

10. It is submitted that the said Muthu Gounder and his family members sold the said lands to Karthik Raja and Rathina Kumar. It is submitted that Sellappa Gounder and Krishnan sold the lands in which they have no right over it, hence the sale is not binding on the 4th respondent. further more the said Krishnan and Sellappa Gounder were parties to the second appeal, based on the decree passed in the Second Appeal the eastern portion belongs to the 4th respondent."

4. Further, in paragraph 14, he has stated as follows:

"14. It is submitted that he filed the above Crl.O.P.on the strength of an interim injunction granted in his favour in I.A.No.1674/2005 in O.S.No.652/2005. He suppressed the fact that the said suit itself was dismissed on 15.10.2012. Once the suit was dismissed the interim order stands automatically dismissed. Here he suppressed the said factum of dismissal of O.S.No.652/2005, he filed the above Crl.O.P."

5. From the above it is clear that, the dispute between Karthick Raja and Gowri Shankar has to be decided only by civil Court and this Court in exercise of the power under Section 482 Cr.P.C. cannot grant police protection to either party. This Court has dismissed the petitions in Crl.O.P.Nos.8812 of 2015 and 7072 of 2015 filed by Gowri Shankar.

In the result, this petition is dismissed with liberty to the petitioner to workout his remedy in the manner known to law.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Superintendent of Police
Namakkal District
Namakkal.

2.The Deputy Superintendent of Police
Namakkal District
Namakkal.

3.Inspector of Police,
Pellukuruchi Police Station
Pellukuruchi
Namakkal District.

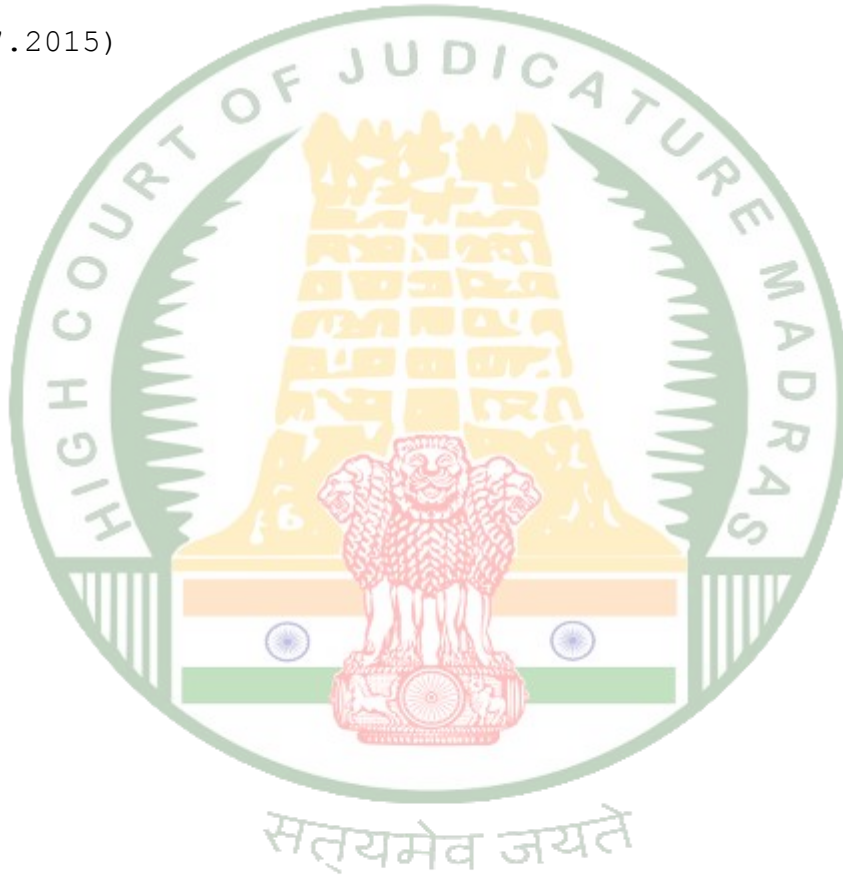
4.The Public Prosecutor
High Court, Madras.

1 CC to M/s.S.Senthamil Selvan, Advocate SR.No. 35429

1 CC to M/s. B.Jawahar, Advocate SR.No. 34938

CrI.O.P.No.9814 of 2015

ALA (CO)
PSI (24.07.2015)



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