

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP Nos.12770 and 12771 of 2016

M.O.Yasin

..Petitioner in both Crl.O.Ps.

Vs.

1. The Inspector of Police (L&O)
Kelambakkam Police Station
Chennai 603 103.

..Respondents No.1 in both Crl.O.Ps.

2. Rasheed Khan
No.5, Indira Street,
Devaraj Nagar,
Saligramam, Chennai-93.

3. S.Raju,
No.5/1, K.K.P.Salai,
Raghavendra Nagar,
Ramapuram, Chennai-89.

(Impleaded as 2nd and 3rd Respondents as per
Order of this Court Dated 27/6/16 in Crl.MP.7008/16 in
CRL.O.P.NO.12770/2016 & CRL.MP.NO.7009/16 IN
CRL.OP.NO.12771/2016)

...R2 & R3 in Both CRL.OPS.

Prayer:- Criminal Original Petitions filed under Section 482
Cr.P.C., to direct the respondent police to register an FIR in
respect of the petitioner's complaint dated 14.06.2016 in CSR
No.337/2016; and to direct the respondent police to provide
police protection to the petitioner and his property.

For Petitioner : Mr.Sriram Panchu
Senior Counsel
for Mr.V.Chandraprabu
For intervenor : Mr.AR.L.Sundaresan
Senior Counsel
For Respondent : Mr.C.Emalias,
Addl.Public Prosecutor

C O M M O N O R D E R

These petitions have been filed to direct the respondent police to register an FIR in respect of the petitioner's complaint dated 14.06.2016 in CSR No.337/2016; and to direct the respondent police to provide police protection to the petitioner and his property.

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

3. The property in question measuring about 3.37 acres originally belonged to a partnership firm of Yasin and they sold the property to Noor Mohammed by two sale deeds dated 13.09.1993 and 16.09.1993. Thereafter, Yasin filed a suit in O.S.No.232/1998 before the Additional Sub Judge, Chengalput for declaration that the sale deeds are sham and nominal and also for consequential injunction restraining Noor Mohammed and other defendants from interfering with the peaceful possession of the property. During the pendency of the suit, Noor Mohammed sold the property to one "X" in the year 2007, from whom Rashid Khan and Raju appear to have purchased. The suit in O.S.No.232/1998 was decreed on 23.04.2012, thereby the two sale deeds dated 13.09.1993 and 16.09.1993 were declared as null and void and consequential injunction has been given in favour of Yasin restraining Noor Mohammed and other defendants from interfering with the peaceful possession of the property. Admittedly, an appeal is pending in A.S.No.15/2012 before the Additional District Judge, Chengalput filed by Noor Mohammed. While so, in the complaint dated 14.06.2016, it is alleged by Yasin that on 14.06.2016, some persons who were set up by the said Raju attempted to forcibly take possession of the property by assaulting the watchman. In this regard, petition enquiry is pending in CSR Nos.238/2016 and 337/2016. Similarly on the complaint of Rashid Khan, petition enquiry is pending in CSR No.336/2016. It is the case of Yasin that he requires police protection for free ingress and egress into the property.

4. Mr.AR.L.Sundaresan, learned Senior Counsel for Rashid Khan and Raju would submit that the matter is pending in A.S.No.15/2012 before the Additional District Judge, Chengalput, which has to decide the issues afresh and therefore, the relief of Yasin for police protection cannot be granted. Admittedly, there is a decree in favour of Yasin, which clearly states that he is in possession of the property and he is entitled to injunction restraining Noor Mohammed from interfering with his possession. Rashid Khan and Raju are subsequent purchasers of the property pendente lite. Therefore, they cannot have a better title than that of Noor Mohammed. It is the duty of the police to give effect to civil Court decrees and give protection to Yasin from any aggression. Hence, this Court directs the police to give

protection to Yasin for free ingress and egress into the property. Whatever is stated above is only for deciding the present issue and shall not prejudice the case of either party in the appeal pending before the Additional District Judge, Chengalput.

With the above direction, these petitions are closed.

gms

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Inspector of Police (L&O)
Kelambakkam Police Station
Chennai 603 103.

2.The Public Prosecutor, High Court, Madras.

3. The Additional Sub Judge, Chengalpattu.

4. The Additional District Judge, Chengalpattu.

+ 2 ccs to Mr.V.Chandraprabu, Advocate Sr 35873 & 35874

+ 1 cc to M/s.A.L.Gandhimathi, Advocate Sr 35794

KR/12/7/16

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