



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2016

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THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

Crl.O.P.(MD) No.19058 of 2016

1.G.L.Gowri Shankar
2.G.L.Ram Shankar

.. Petitioners

Vs.

1.The Superintendent of Police,
Thanjavur District.

2.The Deputy Superintendent of Police,
Kumbakonam Division,
Thanjavur District.

3.The Inspector of Police,
East Police Station,
Kumbakonam,
Thanjavur District.

4.The Residency Flat Promoters,
rep.by Sivakumar
2/437, Indira Nagar, Ullur Vattam,
Kumbakonam Taluk, Thanjavur District

.. Respondents

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to direct the respondents 1 & 2 to give adequate police protection for demolishing the existing dilapidated and old building and for constructing a new building as per the approval granted by the Kumbakonam Municipality in New No.30, Old No.62, Patchayappa Mudhali Street in Survey No.620 in Ward No.1, within Kumbakonam Town Municipality Limit within a total extent of 6694 sq. feet and for the life and limb of the petitioners and their family members based on their complaint dated 24.09.2016.

For Petitioners : Mr.D.Venkatesh

For RR 1 to 3 : Mr.K.Anbarasan
Government Advocate
(Crl. Side)

**ORDER**

The petitioners seek a direction to the respondents 1 & 2 to give adequate police protection for demolishing the existing dilapidated and old building and for constructing a new building as per the approval granted by the Kumbakonam Municipality in New No.30, Old No.62, Patchayappa Mudhali Street in Survey No.620 in Ward No.1, within Kumbakonam Town Municipality Limit within a total extent of 6694 sq. feet and for the life and limb of the petitioners and their family members based on their complaint dated 24.09.2016.

2. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondents.

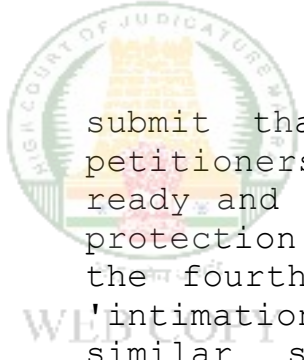
3.The case of the petitioner is that the property to an extent of 6,694 sq. feet in Survey No.620 in Ward No.1, within Kumbakonam Town Municipality was originally owned by one Krishnaswamy Iyyangar. After his demise, his two sons inherited the property. The petitioner's father filed a suit in O.S.No.5066 of 2009 before the XIII-Additional City Civil Court, Chennai, for specific performance against the owners. The suit came to be decreed on 31.08.2009. Based on the decree, the petitioners father filed an execution petition in E.P.No.4 of 2010. Pending execution petition, the fourth respondent filed a claim petition under Order 21 Rule 58 in E.A.No.31 of 2010. The petition was dismissed on merits on 17.04.2012 and thereafter the Court executed the sale deed in favour of the petitioners' father on 25.06.2015.

4.The petitioners would further state that against the dismissal of the execution application in E.A.No.31 of 2010, the fourth respondent has not preferred any appeal. Therefore that has become final. The petitioners got a plan approval from Kumbakonam Municipality for demolition and construction of the new building in the property. Since the fourth respondent made objections, the petitioners approached the respondents with representations/complaints, dated 21.09.2016, 23.09.2016 and 24.09.2016 seeking police protection. Since no favourable order was passed, the present petition is filed.

5.The learned Government Advocate (Crl. Side), on instructions, would submit that pursuant to the Civil Court decree, the petitioners have approached the respondent. If the entire expenses are borne by the petitioners, the respondent would provide necessary protection.

<https://hcservices.ecourts.gov.in/hcservices/>

6. Mr.D.Venkatesh, learned counsel for the petitioner would



submit that even in the representation dated 24.09.2016, the petitioners has categorically stated that the petitioners are ready and willing to deposit the entire cost for providing police protection. He further submitted that the Private notice sent to the fourth respondent has been returned with an endorsement as 'intimation served not claimed'. He further submitted that in similar situation, this Court has passed an order dated 12.03.2014, in CrI.O.P.No.8924 of 2013, in paragraph Nos.7 & 8 as follows:

"7. In the aforesaid circumstances, this court considers it appropriate to refer to report of the committee constituted by the Government in G.O.(3D) No.42, Home dated 30.06.2008 towards review of the system of treating complaints relating to money and land matters and to suggest a legally acceptable methodology. The report of such committee touching upon several issues, was accepted by Government. Having done so, under G.O.Ms.No.1580 Home (POL.VII) Department dated 24.11.2008, the Director General of Police was required to circulate the report along with the 14 point guidelines annexed to such Government order to police officers/stations for appropriate adherence. Under C.No.43/CRB/CSP/2008 dated 08.12.2008, the Commissioner of Police, Chennai Sub-Urban, has caused communications to all Deputy Commissioners, Assistant Commissioners and Inspector of police for necessary action. Guideline 11 issued by the committee reads as follows:

"11. When police protection is sought for the implementation of a civil court order it should be given readily. Police should not insist on a specific court direction to give police protection."

8. What is informed above makes clear that the petitioner would be entitled to police protection as prayed for. Criminal original petition is allowed. There will be a direction to respondents to provide police protection to the petitioners for a period of three weeks from the date of receipt of a copy of this order towards enabling them raising fresh barbed wire fences on their property. The same will be at the cost of the petitioner.

7. Considering the submission of the learned counsel for <https://hcces.courtsofindia.org/> and the learned Government Advocate (Crl. Side) and following the order passed by this Court stated supra, this Criminal Original Petition is allowed. The second respondent is



directed to provide necessary police protection to the petitioners, at the time of demolishing the existing dilapidated, old building and for constructing a new building in their property. The petitioners shall bare the entire cost.

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Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To:

1.The Superintendent of Police,
Thanjavur District.

2.The Deputy Superintendent of Police,
Kumbakonam Division,
Thanjavur District.

3.The Inspector of Police,
East Police Station,
Kumbakonam,
Thanjavur District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to MR.D.VENKATESH, Advocate SR.No.62845

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21.10.2016

SMA/SKS-RR/11.11.2016:4P/6C