



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2016

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THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

Crl.O.P. (MD) No.23521 of 2016

1.Veerapathiran
2.Chandrasekaran

: Petitioners

-VS-

1. The State
rep. by its Inspector of Police,
Ambathurai Police Station,
Dindigul District.

2. Muthuchamy
3. Duraichamy

: Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the 1st respondent to give adequate police protection to the petitioners and to their family members in using their pathway and their land situated survey Nos.451/5B and 451/5C, Ambathurai Village, Aathur Taluk, Dindigul District, by considering their representation, dated 27.10.2016.

For Petitioners : Mr.N.Sathish Babu

For 1st Respondent : Mr.A.P.Balasubramanian
Govt. Advocate (Crl.Side)

O R D E R

This petition has been filed, seeking to direct the 1st respondent to give adequate police protection to the petitioners and to their family members in using their pathway and their land situated survey Nos.451/5B and 451/5C, Ambathurai Village, Aathur Taluk, Dindigul District, by considering their representation, dated 27.10.2016.

2.The learned counsel appearing for the petitioners has submitted that the petitioners and the respondents 2 and 3 are the sons of one Vellaichamy and they have been enjoying some properties jointly situated in Ambathurai Village, Aathur Taluk, Dindigul District and after the death of the said Vellaichamy,



there was a partition between the family members and they have been enjoying their shares allotted to them and that on 04.03.2015, the respondents 2 and 3 unlawfully encroached the pathway used by the petitioners and closed the same by fencing with stones and iron rods and when the same was questioned, the respondents 2 and 3 abused the petitioners and also threatened them with dire consequences. Hence, the petitioners lodged a complaint against the respondents 2 and 3 and requested to take action against them. The first respondent police asked the respondents 2 and 3 to remove the encroachment put up by them, but they have refused to do so.

3.It is further submitted that the petitioners filed a suit against the respondents 2 and 3 in O.S.No.223 of 2015 on the file of the District Munsif, Dindigul and on 31.08.2016 obtained an order of temporary injunction in their favour and even thereafter also, on 27.10.2016, the respondents 2 and 3 restrained the petitioners from using the pathway. Hence, the petitioners preferred a complaint before the 1st respondent police seeking for adequate police protection. Since it was not considered, the petitioners are before this court.

4.The learned Government Advocate (Criminal side) has submitted that the dispute between the parties is civil nature and in this connection, a civil suit is pending and hence, prayed that the petition has to be dismissed.

5.Heard both sides and perused the materials available on record.

6.It is seen from the records that the civil litigation is pending between the parties. The petitioners have filed a suit for permanent injunction against the respondents 2 and 3 and also obtained an order of temporary injunction. If at all the petitioners are aggrieved, they have to approach the court concerned for police protection and not by way of filing this petition before this court to seek police protection, which is not maintainable in law.

7.In view of the above facts, this petition is dismissed with liberty to the petitioners to approach the competent court to get appropriate relief in accordance with law.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar



To:

1. The Inspector of Police,
Ambathurai Police Station,
Dindigul District.

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

+1cc to Mr.N.Sathish Babu, Advocate Sr.No.83611

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23.12.2016