

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.O.P.No.3149 of 2017

R.Radhakrishnan

... Petitioner/Complainant

Vs

State rep.by its
Inspector of Police,
R-2, Kodambakkam Police Station,
Kodambakkam, Chennai.

... Respondent

Petition filed under Section 482 of the Criminal Procedure Code, to direct the respondent to give police protection to the petitioner for constructing the plot.

For Petitioner : Mr.P.Kumaresan

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

The petitioner purchased a vacant land situated at Old No.16/3, New No.36, Akbarabad 1st Street, Kodambakkam, Chennai measuring about 1 ground and 1306 sq.ft. comprised in T.S.No.16/1, Block No.38, Puliyur Village, Egmore-Nungambakkam Taluk, Chennai District, from one Late M.Jagamohan and his legal heirs and the petitioner is in possession and enjoyment of the said land till date. When he proceeded with construction work on the said land, the same was obstructed by the respondent police. He filed a writ petition in W.P.No.6472 of 2010 to restrain the respondent police from interfering with the land in question, but the same was dismissed. Finally the matter went upto the Hon'ble Supreme Court and the Hon'ble Supreme Court in S.L.P.(C) No.21022 of 2014 by order dated 12.01.2015, allowed the appeal of the petitioner. Armed with the order of the Hon'ble Supreme Court, he proceeded with construction, but the same was interrupted by one J.Fernando and his men and they started trespassing into the said property. The petitioner made a complaint to the respondent police, but no action has been taken on the complaint till now. Hence this Criminal Original Petition.

2.The learned counsel for the petitioner submitted that even though the petitioner is in possession of the property in question, the said Fernando is continuously giving trouble to the petitioner and hence, the petitioner requested the respondent police to give police protection to him and his family. The learned counsel further submitted that in identical situation, this Court, in the case of Radhika Sri Hari and another v. Commissioner of Police reported in 2014 (2) CTC 695, has held that the petitioner in that case would be entitled to police protection as prayer for. Thus, he sought for similar direction in this petition also.

3.On the above submissions, I have heard also the learned Additional Public Prosecutor, and perused the entire materials available on record.

4.In the decision reported in 2014 (2) CTC 695 - Radhika Sri Hari and another v. Commissioner of Police, in paragraphs 7 and 8, this Court has held 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. "

Hence, as per the Guideline 11 issued by the committee constituted by the Government in G.O.(3D) No.42, Home dated 30.6.2008, when police protection is sought for, for the implementation of a civil court order, it should be given readily. In the instant case also, the judgment of the Hon'ble Supreme Court in S.L.P.(C).No.21022 of 2014 dated 12.01.2015 is now in force. Hence, based on the said judgment, the petitioner is entitled to get police protection for his life and property.

5.In the result, the Criminal Original Petition is allowed and the respondent police is directed to provide adequate police protection to the petitioner for making construction in the said plot. However, the same will be at the cost of the petitioner. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Inspector of Police,
R-2, Kodambakkam Police Station,
Kodambakkam, Chennai.
2. The Public Prosecutor,
Madras High Court,
Chennai-600 104

+1cc to Mr.P.Kumaresan, Advocate, S.R.No.43533

CrI.O.P.No.3149 of 2017

CA(CO)
CA(03/07/2017)