

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Cr1.O.P. No. 8147 of 2017

1.Pichai
2.Thangam
3.Lallitha
4.Rajarajeswari

.. Petitioners

versus

1.The Superintendent of Police,
Cuddalore District,
Cuddalore.

2.The Inspector of Police,
Cuddalore N.T. Police Station,
Cuddalore.

3.Sankar
4.Bhavani
5.Santhanam
6.Elangovan

.. Respondents

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondents 1 and 2 to give protection to the petitioners for peaceful enjoyment of the properties situate at Vanniyarpalayam, Cuddalore, Ward No.6, Block No.38, T.S.No.1303 - 15869 sq.ft and T.S.No.1341 - 3121 sq.ft. Totaling 18990 sq.ft.

For Petitioners : Mr.N.Suresh
For R1 & R2 : Mr.C.Emalias, AGP

ORDER

The present criminal original petition has been filed seeking a direction to the respondents 1 and 2 to give protection to the petitioners for their peaceful enjoyment of the properties situated at Vanniyarpalayam, Cuddalore in Ward No.6, Block No.38, T.S.No.1303 measuring to an extent of 15869 sq.ft and in T.S.No.1341 measuring to an extent of 3121 sq.ft. totaling 18990 sq.ft.

2. It is the case of the petitioners that they are the absolute owners of the properties situated at Vanniyarpalayam, Cuddalore, in Ward No.6, Block No.38, T.S.No.1303 measuring to an extent of 15869 sq.ft and T.S.No.1341 measuring to an extent of 3121 sq.ft. totaling 18990 sq.ft. They originally filed a suit in O.S.No.80/1987 before the learned Principal District Munsif, Cuddalore against the private respondents and others in respect of the said properties for declaration of title and recovery of possession. After due contest, the suit was decreed, against which, the defendants therein filed an appeal in A.S.No.211 of 1991 before the learned Sub Judge, Cuddalore, who, after hearing both sides, remanded the matter to the trial court for fresh consideration. Accordingly, the matter was remanded back to the trial court and ultimately, the suit was decreed on 02.04.2009 in favour of the petitioners and others. The said decree was challenged by the private respondents by way of appeal in CMA No.3/2014, which was dismissed on 16.06.2016. Thus, the decree granted by the trial court on 02.04.2009 in favour of the petitioners has become final.

3. It is the further case of the petitioners that based on the decree granted in their favour, they filed a petition in E.P.No.166/2010 before the District Munsif Court, Cuddalore seeking delivery of the properties. After contest, the Execution Petition was ordered and the properties were taken delivery by the petitioners. Pursuant to the same, the petitioners were put in possession of the properties in question. While so, on 05.02.2017, the private respondents, knowing fully well that the decree granted in favour of the petitioners had attained finality and the properties had been taken delivery through the process of the court, have committed criminal offences against the petitioners herein by wielding dangerous weapons, due to which, the petitioners ran out of the properties. Hence, a complaint dated 20.03.2017 came to be filed to the respondents 1 and 2 seeking protection for the peaceful enjoyment of the properties in question by the petitioners. Finding no response on the said complaint, the petitioners have come up with the present petition for the above stated relief.

4. Learned counsel appearing for the petitioner submitted that though the petitioners had obtained a civil court decree in respect of properties in question in their favour and they were put in possession of the same through the process of the court, the private respondents have threatened them to vacate the properties by wielding dangerous weapons. 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 as the civil

court decree was in favour of the petitioner, he would be entitled to police protection as prayer for. Thus, learned counsel sought for similar direction in this petition also.

5. On the above submissions, I have heard the learned Additional Public Prosecutor appearing for the respondents 1 and 2 and perused the entire materials available on record.

6. In the decision reported in 2014 (2) CTC 695 - Radhika Sri Hari and another v. Commissioner of Police, in paras 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 petitioners have obtained a civil court decree in respect of the properties in question in their favour and have also taken delivery of the same through the process of the Court. Hence, the petitioners are entitled to get police protection in respect of their properties in question.

7. In the result, the criminal original petition is disposed of, by directing the respondent police to consider the representation of the third petitioner dated 20.03.2017 on merits and in accordance with law, after issuing notice to the petitioners as well as to the respondents 3 to 6 and take appropriate action within a period of four weeks from the date of receipt of a copy of this order. Till such time, the respondent police is directed to provide adequate police protection to the petitioners. However, the same will be at the cost of the petitioners.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Superintendent of Police,
Cuddalore District,
Cuddalore.
- 2.The Inspector of Police,
Cuddalore N.T. Police Station,
Cuddalore.

- 3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Suresh, Advocate, S.R.No.25488

Cr1.O.P. No. 8147 of 2017

KK(CO)
RS(18/05/2017)