

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P.No.7495 of 2017

C. Mani ... Petitioner

Vs

- 1.The State,
rep. by Commissioner of Police,
Egmore, Chennai - 600 008.
- 2.The Inspector of Police,
T-7, Tank Factory Police Station,
Avadi, Chennai - 600 054.
3. C.M. Venkateswaralu ... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondents 1 and 2 to provide Police Protection to the Petitioner to enforce the Judgment and Decree viz., Permanent Injunction order as granted by the District Munsif Court, Thiruvallur in O.S.No.630/1983 dated 12.04.1985 which was confirmed by the Appellate Court in A.S.No.65/1997 dated 18.11.1998 on the file of Subordinate court, Thiruvallur.

For Petitioner : Mr.P.Haribabu

For respondents:Mr.Mohamad Riyaz,
Govt.Advocate (Crl.Side) for R1 & R2

ORDER

The present criminal original petition has been filed seeking a direction to the respondent police to provide police protection to the petitioner to enforce the judgment and decree viz., permanent injunction order as granted by the District Munsif Court, Thiruvallur in O.S.No.630/1983 dated 12.04.1985 which was confirmed by the Appellate Court in A.S.No.65/1997 dated 18.11.1998 on the file of Sub-court, Thiruvallur, so as to carry out house construction work in his land in Survey No.243/3 part, Morai-Sankarapuram Village and Revenue Village of

Veerapuram, now Avadi Taluk, Tiruvallur District (previously Saidapet Taluk, Chengalpet District), in compliance with the law declared by this Court in Radhika Sri Hari Case (2014 (2) CTC 695).

2. It is stated by the petitioner in the affidavit filed in support of this petition that he is the owner of the land in Survey No.243/3 part, Morai-Sankarapuram Village and Revenue Village of Veerapuram now Avadi Taluk, Tiruvallur District (previously Saidapet Taluk, Chengalpet District). On 25.01.2017 when the petitioner arranged Boomi Pooja and foundation work in his land in order to construct a house, the third respondent and his men prevented the petitioner from performing the said Boomi Pooja and foundation work and also threatened the petitioner with dire consequences and pelted stones against the petitioner. In view of the same, the petitioner was unable to conduct Boomi Pooja. The petitioner lodged a police complaint on the next day against the third respondent. It is also stated by the petitioner that earlier the third respondent's father interfered with the petitioner's possession and enjoyment of the said land, against which the petitioner filed a suit in O.S.No.630/1983 before the District Munsif, Tiruvallur and the said suit was decreed granting permanent injunction in favour of the petitioner on 12.04.1985 and the same was also confirmed in A.S.No.65/1997 by the Sub-Court, Thiruvallur by order dated 18.11.1998. In spite of the permanent injunction obtained from the competent Civil Court, the petitioner was not able to carry out his house construction work in the site in question. The petitioner approached the respondent police seeking police protection, for which no action is forthcoming. Hence this Criminal Original Petition.

3. Learned counsel appearing for the petitioner submitted that even after obtaining an order of permanent injunction from the Trial Court, the third respondent is continuously giving trouble to the petitioner and hence, on the strength of the order passed by the Court, he requested the respondent police to give police protection to him and his family. Learned counsel appearing for the petitioner 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.

4. On the above submissions, I have heard also the learned Government Advocate (Criminal Side) and perused the entire materials available on record.

5. 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 petitioner has obtained an order of permanent injunction in his favour from the Trial Court and the same is now in force. Hence, based on the said order, the petitioner is entitled to get police protection for his life and property.

6. In the result, the criminal original petition is allowed and the respondent police is directed to provide adequate police protection to the petitioner's life and property, as and when required by him. However, the same will be at the cost of the petitioner.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

KM/RKP

To

- 1.The Commissioner of Police,
Egmore, Chennai - 600 008.
 - 2.The Inspector of Police,
T-7, Tank Factory Police Station,
Avadi, Chennai - 600 054.
 - 3.The Public Prosecutor,
High Court, Madras.
- +lcc to Mr.P.Hari Babu,Advocate sr.36483

Cr1.O.P.No.7495 of 2017

sk(co)
ss(8/5/2017)

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