

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2017

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.771 of 2017

&

WMP.No.807 of 2017

S.Sambandam

.. Petitioner

Vs.

1.The Commissioner of Police,
Poonamallee High Road,
Vepery, Chennai-600 015.

2.The Deputy Commissioner of Police,
L.B. Road, Adyar,
Chennai-20.

3.The Assistant Commissioner of Police,
Neelankarai Range,
Neelankarai,
Thiruvannamiyur,
Chennai-41.

4.The Inspector of Police,
J-12, Kanathur Police Station,
ECR Road, Kanathur,
Muttukadu,
Chennai-603 112.

5.P.Chandrasekaran

6.C.Suseela

7.C.Damodaran

8.Lalitha

9.C.Sampathkumar

.. Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Mandamus, directing the respondents 1 to 4 to give police protection to the petitioner and his family members to enter into their residential units/plots bearing Nos.13 to 16 situated in old S.No.99/5C, as

per patta No.422 new S.No.99/5C1C2A1, Muttukadu Village, Thiruporur Taluk, Kancheepuram District and reside there peacefully, based on their complaint dated 05.01.2017 given to the fourth respondent under CSR.No.6 of 2017.

For Petitioner : Mr.R.Krishnamurthy, Sr. counsel
for Mr.S.Thangavel

For Respondent : Mr.P.Govindarajan,
Nos.1 to 4 Additional Public Prosecutor

For Respondent : Mr.Silambanan, Sr. counsel
Nos.5 & 6 for Ms.Kaviya Silambanan

For Respondent : Mr.Senthamilselvan
Nos.7 & 8

For Respondent : Mr.Babu Barveez
No.9

O R D E R

In view of the obstructions caused by the respondents 5 & 6, in preventing the petitioner and his family members from enjoying their immovable property bearing plot Nos. 13 to 16 situated in old S.No.99/5C, as per patta No.422 new S.No.99/5C1C2A1, Muttukadu Village, Thiruporur Taluk, Kancheepuram District, the present writ petition has been filed seeking for police protection.

2.Heard Mr.R.Krishnamurthy, learned Senior counsel appearing for the petitioner and Mr.P.Govindarajan, learned Additional Public Prosecutor for the respondents 1 to 4, Mr.Silambanan, learned Senior counsel for the respondents 5 & 6, Mr.Senthamilselvan for the respondents 7 & 8 as well as Mr.Babu Barveez for the respondent-9.

3.The petitioner and the respondents 5 to 9 are rival claimants over the immovable property comprised in plot Nos. 13 to 16 situated in old S.No.99/5C, as per patta No.422 new S.No.99/5C1C2A1, Muttukadu Village, Thiruporur Taluk, Kancheepuram District (hereinafter referred to as the subject property). From the averments made in the affidavit as well as in the counter affidavit, both the parties claim rights over the subject property by their titles through various documents. Since the issue with regard to their respective entitlement, rights and title is within the domain of a Civil Court, after due trial and proof of original documentary evidence, I do not wish to venture or comment into the various documents produced on either side. Nevertheless, it is the specific case of the petitioner that the respondents 5 to 9 have been consistently

creating disturbance thereby preventing the petitioner from enjoying the subject property and disturbing their possession.

4.The question that needs to be addressed in the present petition is as to whether the petitioner requires the necessary police protection or not. For this purpose, what requires to be prima facie established by the petitioner is as to whether he is in possession of the subject property as on date and whether such possession is on the basis of certain prima facie documents establishing his possession.

5.The learned Senior counsel appearing for the petitioner by drawing my attention to a plan approval dated 09.11.2004 submitted that the subject property comprised in plot Nos.13 to 16 were duly approved by the Panchayat Union of Muttukadu. By a development agreement, possession of these plots No.13 to 16 amongst other plots were handed over to the petitioner as evidenced in the developers letter dated 18.08.2008. The petitioner has also obtained electric service connection in his name for the subject property. The revenue documents including the patta of the subject property were also granted in favour of the petitioner. The voters list also bears the petitioner's name with the subject property shown as his address. From the aforesaid documents, it is prima facie clear that the subject properties are in possession of the petitioner.

6.The respondents 5 to 9 on the other hand claim that they are in physical possession of the subject property. However, apart from the statements made in the counter affidavit, there are no documents to substantiate that these respondents are in possession of the subject property. Incidentally, the fifth respondent had filed a suit in O.S.No.54 of 2017 before the learned District Munsif, Chengalpattu against the petitioner and his wife seeking for permanent injunction restraining them from interfering with their peaceful possession and enjoyment of the suit property. In the plaint filed in the above suit, the fifth respondent had stated that the petitioner herein had put up illegal construction in the plot Nos.14 & 15 which is a part of the subject property. He has further stated in para 15 of the plaint that he reserves his right to file a property suit for reclaiming the possession of the said lands in plot Nos.14 & 15. in view of the statement, it can only be construed that the fifth respondent had admitted that the petitioner herein is in possession of plot Nos.14 & 15 wherein the petitioner has put up construction. Thus, admittedly the possession is with the petitioner.

7.Though the plaint was filed way back in February 2017, the fifth respondent has not initiated any civil proceedings for reclaiming the subject property from the petitioner herein. This aspect has been admitted by the learned counsel for the

fifth respondent during his submission.

8. There are sufficient materials produced before this Court to show that there has been frequent altercations between the petitioner and the fifth respondent in connection with the enjoyment of the said properties. Both the parties have been consistently approaching the police complaining about each other. I am of the view that these kind of disturbances needed to be thwarted, unless and until the finality with regard to the title is arrived at by the appropriate civil Courts. Since the petitioner has proved beyond reasonable doubts that he is in physical possession of the suit property, it would be appropriate to direct the police to extend adequate protection to enable the petitioner and his family members to enjoy the subject property.

9. In the light of the above observations, there shall be a direction to the third respondent to provide necessary police protection to the petitioner and his family members to enter and enjoy the properties comprised in plot Nos.13 to 16 situated in old S.No.99/5C, as per patta No.422 new S.No.99/5C1C2A1, Muttukadu Village, Thiruporur Taluk, Kancheepuram District. The third respondent shall also ensure that unless and until the respondents 5 to 9 produce valid civil Court orders establishing their titles, they shall be refrained from causing disturbance or annoyance to the petitioner's right to enjoy the subject property.

10. With the above direction, the Writ Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

DP

To

1. The Commissioner of Police,
Poonamallee High Road,
Vepery, Chennai.

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L.B. Road, Adyar,
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3. The Assistant Commissioner of Police,
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ECR Road, Kanathur,
Muttukadu,
Chennai-603 112.

5. The Public Prosecutor,
High Court, Madras.

+2 Ccs to Ms.S. Thangavel, Advocate sr 67929.

+1 CC to Ms.Kaviya Silambanan, Advocate sr 68826(10/10/2017)

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& WMP.No.807 of 2017

KJ(CO)
sp(06/10/2017)



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