

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

CrI.O.P.No.667 of 2017

R.Thanigaivelu

... Petitioner

Vs

1. The Inspector of Police,
Kodungaiyur Police Station,
Chennai-118.

2. K.Nithyanandam

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to provide police protection to the petitioner to complete the repair works in his property as per the order made in C.M.P.No.13114 of 2016 in A.S.No.322 of 2015 dated 29.8.2016.

For Petitioner : Mr.V.Chandraprabhu

For respondents : Mr.C.Emalias,
Addl. Public Prosecutor for R1

ORDER

The present criminal original petition has been filed to provide police protection to the petitioner to complete the repair works in his property as per the order made in C.M.P.No.13114 of 2016 in A.S.No.322 of 2015 dated 29.8.2016.

2. It is the case of the petitioner that he is absolute owner of the property bearing Old Door No.92, New Door No.154, Kamarajar Salai, Kodungaiyur, Chennai-118, measuring to an extent of 5400 sq.ft. comprised in S.No.104/6 in Kodungaiyur Village. While so, the second respondent, who is the petitioner's brother's son preferred a suit in O.S.No.2583 of 2013 on the file of the learned XV Additional Judge, City Civil Court, Chennai, for partition and separate possession in respect of suit 'A', 'B' and 'C' schedule properties. The property of the petitioner has been shown as 'C' schedule property in the said suit and the petitioner was also arrayed as 8th defendant in the said suit. Pending suit, the petitioner filed an application

in I.A.No.124 of 2014 to reject the plaint in O.S.No.2583 of 2013 and the same was also allowed on 5.3.2015. Aggrieved over the same, the second respondent filed an appeal in A.S.No.322 of 2015 before this Court along with a petition in M.P.No.1 of 2015 seeking interim injunction restraining the petitioner from altering the petition scheduled property. This Court, by order dated 6.4.2016, passed an exparte interim injunction in favour of the second respondent, against which, the petitioner preferred an application in C.M.P.No.13114 of 2016 to vacate the exparte interim injunction and this Court, by order dated 29.8.2016, vacated the said exparte interim injunction and permitted the petitioner to carry out the repair works in the 'C' schedule property. As per the said order, while the petitioner was carrying out the repair work of removing the old roof, which was damaged in the last monsoon rain, on 18.10.2016, the second respondent with the help of the first respondent police prevented the petitioner and his labourers from carrying out the repair works. Hence, the petitioner has come up with the present petition seeking police protection to complete the repair works in his property as per the order made in C.M.P.No.13114 of 2016 in A.S.No.322 of 2015 dated 29.8.2016.

3. Learned counsel appearing for the petitioner submitted that even after obtaining interim order in favour of the petitioner, the second respondent is preventing the petitioner from carrying out the repair works and hence, he seeks police protection to do the repair work. 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 Additional Public Prosecutor 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 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, this Court, by order dated 29.8.2016 in C.M.P.No.13114 of 2016, permitted the petitioner to carry out the repair works in the 'C' schedule property. Hence, based on the said order, the petitioner is entitled to get police protection to carry out the repair works in his property.

6. In the result, the criminal original petition is allowed and the first respondent police is directed to provide adequate police protection to the petitioner for a period of three weeks from the date of receipt of a copy of this order to enable him to carry out the repair works in his property. However, the same will be at the cost of the petitioner.

s/d-
Assistant Registrar(CO)

//True Copy//

Sub-Assistant Registrar

To

1. The Inspector of Police,
Kodungaiyur Police Station,
Chennai-118.

2. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr. V. Chandra Prabhu, Advocate sr 2596

Cr1.O.P.No.667 of 2017

KSJ(CO)
sp/27/1



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