

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

CrI.O.P.No.25184 of 2016

Rajammal ... Petitioner /Petitioner

Vs

1.State rep. by
The Inspector of Police,
Sathyamangalam Police Station,
Erode District.

2.D.Chinnasamy

3.D.Ramasamy

4.Chinnakanja Naicker

5.Rajannan

6.Chinnaraj

7.Mallika

(R2 to R7 are impleaded
as per the order of this Court
dated 23.12.2016 in

CrI.MP.No.13837 of 2016) ... Respondents /Respondents

Criminal Original Petition filed under Section 482
Cr.P.C. to direct the respondent police to give protection
when the surveyor Bavanisagar, Sathyamangalam Taluk, Survey 10
acres of land situated at Poosaripalayam Village, Sathyamangalam
Taluk, Erode District as per the final decree proceedings in
O.S.No.200 of 1991 on the file of the Sub Court,
Gobichettipalayam.

For Petitioner : Mr.B.Ramamoorthy

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

ORDER

The present criminal original petition has been filed seeking a direction to the respondent police to give protection during the survey of the land measuring to an extent of 10 acres situated at Poosaripalayam Village, Sathyamangalam Taluk, Erode District by the Surveyor, Bavanisagar, Sathyamangalam Taluk, as per the final decree proceedings in O.S.No.200 of 1991 on the file of the Sub Court, Gobichettipalayam.

2. It is the case of the petitioner that she had filed a suit in O.S.No.200 of 1991 before the Sub Court, Gobichettipalayam, on behalf of herself and on behalf of her mentally retarded son for partition and separate possession. By judgment and decree dated 21.12.2001, the learned Sub Judge had decreed the suit as prayed for and allotted 6/12 shares in the suit property to the petitioner and her mentally retarded son in the final decree proceedings in I.A.No.241 of 2002. Pursuant to the same, possession was also given to her. Thereafter, the petitioner, on behalf of herself and also on behalf of her mentally retarded son, entered into an agreement for sale with one S.R.Murugesan and another in respect of their land measuring to an extent of 10 acres. In order to identify the property to be sold, she requested the Surveyor, Bavanisagar, Sathyamangalam Taluk to survey their land. Accordingly, the Surveyor sent a notice dated 21.09.2016 about his visit on 28.09.2016. However, the same was objected and prevented by one Ramasamy, who is the adjacent land owner and trespasser of the border of the land belonging to the petitioner. In order to avoid any untoward incident, she made a petition to the respondent police, to provide police protection during survey of her land. But, the said request was rejected by the respondent police stating that the dispute is civil in nature. Therefore, she has no other option except to approach this Court with the present petition for the above stated relief.

3. Learned counsel appearing for the petitioner submitted that though the petitioner has got a decree from the civil court in respect of her land, the private respondents have been giving trouble to her, not to deal with her land and hence, she requested the respondent police to give police protection, which was rejected. 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 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, the petitioner has obtained a decree in her favour from the competent civil Court and the same is now in force. Hence, based on the said order, the petitioner is entitled to get police protection to survey and measure the property belonging to her and her mentally retarded son.

6. In the result, the criminal original petition is allowed and the respondent police is directed to provide adequate police protection to the petitioner, during the survey of the land measuring to an extent of 10 acres situated at Poosaripalayam Village, Sathyamangalam Taluk, Erode District, by the Surveyor, Bavanisagar, Sathyamangalam Taluk. However, the same will be at the cost of the petitioner.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1.The Inspector of Police,
Sathyamangalam Police Station,
Erode District.

2.The Public Prosecutor,
High Court, Madras.

3.The Sub Court,
Gobichettipalayam.

+1 cc to mr.B.Ramamoorthy,advocate,sr.2380.

pk(co)
krd 23/2

Crl.O.P.No.25184 of 2016

सत्यमेव जयते

WEB COPY