



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDARCRL.O.P.(MD)No.10842 of 2017

WEB COPY

S.Vennila

: Petitioner

-Vs-

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

2. The Inspector of Police,
Thiruvidai Maruthur,
Kumbakonam (TK),
Tanjavur.

3. R.Narayana Samy

: Respondents

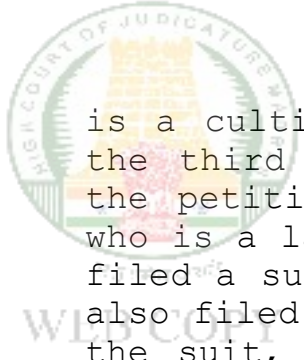
PRAYER: Criminal Original petition filed under Section 482 of Criminal Procedure Code, praying to direct the first and second respondents to take necessary action against the third respondent and provide police protection to the petitioner's life and limb.

For Petitioner : Mr.R.Karunanidhi
For Respondents : Mr.K.S.Durai Pandian
1 and 2 Additional Public Prosecutor
For Respondent 3 : Mr.S.Karthick Subraminian

O R D E R

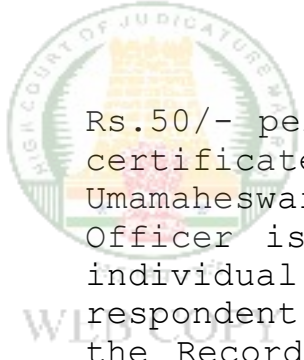
This petition is filed for issuing a direction to the respondents 1 and 2 to take necessary action against the third respondent and to provide police protection to the petitioner's life and limb.

2.The petitioner states that she is the owner of the property measuring an extent of 11 cents in Survey No.56/8 situated at Sarangapani Puliampettai Village, Thanjavur. The petitioner's title is on the basis of the registered sale deed executed by one Faritha Begam, dated 24.05.1996. It is also admitted that the revenue document is in the name of the petitioner. It is the case of the petitioner that the neighbouring lands have become housing plots and that the third respondent has constructed a house adjacent to the petitioner's land. It appears that the third respondent claims right as if he



is a cultivating tenant. It is the case of the petitioner that the third respondent has made several attempts to trespass into the petitioner's property and created problems to the petitioner who is a lady. It is in these circumstances, the third respondent filed a suit in O.S.No.12 of 2016 and along with the suit, he has also filed an application in I.A.No.36 of 2016 for injunction. In the suit, the third respondent has claimed that his father is a lessee under the petitioner's vendor and that the lease is still in force. Since no document was filed along with the plaint, the third respondent filed an application for appointing an Advocate Commissioner with regard to ascertain the actual status of the property. When the Commissioner was about to inspect the property, it is stated by the petitioner that the third respondent along with his henchmen damaged the water tank situated in the petitioner's land, apart from removing the pipe lines and causing damage to the petitioner's property. It is in these circumstances, the petitioner states that she has made a representation to the second respondent. The petitioner further states that the third respondent has a criminal background and that it is necessary for the petitioner to seek police protection to protect her life and limb.

3.The third respondent has not filed any counter. However, he produced a typed set of papers containing xerox copy of the certificate issued by the Village Administrative Officer of Umamaheswarapuram. As per the certificate, it is stated that the third respondent's father was in enjoyment as a cultivating tenant of an extent of 11 cents in Survey No.56/8 and that he has cultivated brinjal, ladies finger and other cash crops. The second document is an unregistered sub-lease agreement. As per this document dated 10.05.2013, the third respondent's father has transferred his leasehold right in favour of the third respondent for a sum of Rs.30,000/-. In this document, it is stated that the third respondent's father has handed over the possession to the third respondent. Even in this document, it is stated by the third respondent's father that he was paying a sum of Rs.50/- per fasli by way of lease amount to the lessors. Again the third respondent has produced another document which is nothing but the application filed in Form-V before the Record Officer, Thiruvidaimaruthur, requesting the Record Officer to modify the records by including the name of the third respondent as a cultivating tenant in respect of 11 cents of land in Survey No.56/8 in Umamaheswarapuram Village. The third respondent also filed another document which is nothing but the representation submitted by the petitioner to the Assistant Executive Engineer of Public Works Department on 08.01.2016. None of the documents produced by the third respondent before this Court is admissible in evidence to prove that the third respondent is in possession of the property. Though the third respondent states that his father and thereafter the third respondent is in enjoyment of the property, as a cultivating tenant and paying a lease amount of



Rs.50/- per fasli to the land owner no document is produced. The certificate issued by the Village Administrative Officer, Umamaheswarapuram, is not admissible as Village Administrative Officer is not competent to issue a certificate recognising any individual as a cultivating tenant of the property. The third respondent himself has filed an application only in 2016 before the Record Officer to modify the record. Admittedly, the father of third respondent was not recorded as cultivating tenant. In support of the petition that was filed before the Tahsildar namely the Record Officer, except the unregistered sub lease deed, certificate of Village Administrative Officer and caveat petition filed by the third respondent's father and himself, no other document was filed to indicate that the third respondent is in enjoyment of the property as a sub-lessee or cultivating tenant in respect of the property, hence, this Court is not able to appreciate the contention of the learned counsel for the third respondent. The third respondent has filed a suit for permanent injunction and that the suit is pending. Hence, this Court exercising the power under Section 482 Cr.P.C. is not inclined to go into the details or to render a finding as to possession and enjoyment of a person. However, having regard to the nature of case pleaded and the facts which are borne out by records, the contention of the petitioner that she is entitled to get police protection from the third respondent can be accepted. The third respondent claims right of cultivating tenant in respect of a small portion of land stating that he is doing cultivation by raising cash crops. Such contention though is not believable, this Court is of the view that the third respondent should be allowed to establish his case in a Court of law. This Court though has only a limited jurisdiction to decide without going into facts, definitely find the circumstances in favour of the petitioner to give a direction to the respondents 1 and 2. Hence, the second respondent is directed to consider the representation of the petitioner and to give police protection to the petitioner's life and limb.

4.This Criminal Original Petition is allowed with the above direction.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar



1. The Superintendent of Police,
Tanjavur District,
Tanjavur.
2. The Inspector of Police,
Thiruvidai Maruthur,
Kumbakonam (TK),
Tanjavur.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.R.Karunanidhi, ADVOCATE IN SR No.84169

+ 1 CC TO MR.S.Karthick Subraminian, ADVOCATE IN SR No.84142

srm

MK/SKN RSK/SAR-1/07.11.2017/4P/6C

CRL.O.P.(MD)No.10842 of 2017
27.10.2017