



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2017

CORAM

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THE HON'BLE MR.JUSTICE S.S.SUNDAR

Crl.O.P.(MD) No.7474 of 2017

1.Subash
2.Krishnakumar

... Petitioners

-Vs-

1. The Superintendent of Police,
Pudukkottai District.

2. The Deputy Superintendent of Police,
Aranthangi,
Pudukkottai District.

3. The Inspector of Police,
Aranthangi Town Police Station,
Pudukkottai District.

4.Parameswaran
5.Kannan
6.Sankar

...Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the respondents to provide police protection for surveying and fencing the lands situated in Survey No.96/2 situated at Avnathangkottai Village, Aranthangi Taluk, Pudukkottai District based on representation dated 14.12.2016.

For Petitioners :Mr.A.K.Manickam

For Respondents 1 to 3 :Mr.K.Anbarasan,
Government Advocate(Crl.side)

For Respondents 4 to 6 :Mr.K.Bala Sundaram

O R D E R

The petition is filed for directing the respondent to provide police protection for surveying and fencing the lands situated in Survey No.96/2 situated at Avnathangkottai Village, Aranthangi Taluk, Pudukkottai District, based on representation dated 14.12.2016.



2.The petitioners stated that they are the owners of the property. Since there was dispute between the petitioners and the respondents 4 to 6, the petitioners filed a suit in O.S.No.41 of 2011 on the file of the District Munsif Court, Aranthangi, for declaration of title and injunction. It is further stated that the petitioners have obtained the decree on 27.01.2016. Though the defendants in the suit, namely, the respondents had filed an appeal in A.S.No.10 of 2016 and the same is pending it is contended that no interim order was granted in favour of the respondents 4 to 6 suspending the decree for injunction which was granted by the Trial Court in favour of the Petitioners. The petitioners further stated that they approached the revenue authorities for survey the land and fixing boundaries. Since the defendants in the suit, namely, respondents 4 to 6 herein objected to the same, it is stated further that the authorities did not come forward to survey the land. It is only in these circumstances, the petitioners have given a representation to the respondent police seeking police protection. The fact that there is a dispute between the petitioners and the respondents 4 to 6 is evident. It is not in dispute that the petitioners have also obtained a decree for declaration of title and permanent injunction as against the contesting respondents 4 to 6. However, an appeal is pending in A.S.No.10/2016 as against the judgment and decree. Eventhough no interim order is in enforce, finding of the trial Court with regard to the title and enjoyment of the suit property of the plaintiffs is challenged in the appeal. In such circumstances, it is always in the interests of justice to maintain the status-quo, so as to preserve the rights of parties during the pendency of appeal. The purpose of granting interim order is only to enable the parties to preserve their rights during the pendency of such proceedings. In that view of the matter, learned counsel for the petitioners cannot take advantage of the decree for the purpose of fencing the land.

3.Learned Counsel appearing for the contesting respondents submitted that the properties were already fenced by the respondents. He has also produced the photographs to show that some fencing is in the land. However, this fact will have to be verified and this Court cannot rely upon the photograph produced before this Court. It is a well settled principle that the Courts will always pend to maintain status-quo till finality is reached. When the matter is pending before the appellate Court any act is likely to affect the interests of the parties pending suit. Appeal is only continuation of suit. Hence, even if the petitioners have any right they can always move Civil Court for appropriate order. Merely because the order of injunction is not suspended by the appellate Court, it cannot be construed that the petitioners have ~~any right affecting the interest of the contesting respondents during the pendency of the appeal.~~ right affecting the interest of the contesting respondents during the pendency of the appeal. In that view of the matter, this Court is not inclined to grant police protection to



fence the property on the basis of the Civil Court decree. Hence, this Criminal Original Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-II)

WEB COPY/True Copy/

Sub Assistant Registrar

To:

1. The Superintendent of Police,
Pudukkottai District.
2. The Deputy Superintendent of Police,
Aranthangi,
Pudukkottai District.
3. The Inspector of Police,
Aranthangi Town Police Station,
Pudukkottai District.

+1cc to Mr.K.Bala Sundaram , Advocate Sr.No.71398

+1cc to Mr.A.K.Manickam, Advocate Sr.No.71474

VSG/RMK

VB/KK/SAR3/12/09/2017/3P/6C

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