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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 22.03.2017

CORAM:

THE HONOURABLE Mr. JUSTICE P.N. PRAKASH
Cont.P. (MD) No. 1608 of 2016
in
Crl.O.P. (MD) No. 12613 of 2016

Russel Raj

... Petitioner / Petitioner

Vs

1. Prema,
The Inspector of Police,
Kollemcode Police Station
Kanyakumari District.

2. Nesamony

3. Kamala Bai

(R2 and R3 were impleaded as per order dated 16.03.2017 in Sub.A.
(MD) No. 17 of 2017) ... Respondents

Prayer: Contempt Petition filed under Section 11 of Contempt of Courts Act, praying this Court to punish the 1st respondent for her willful disobedience of the order of this passed in Crl.O.P. (MD) No. 12613 of 2016 dated 26.07.2016.

Prayer in CRL OP(MD) . 12613/ 2016 :

Criminal Original Petition filed Under Section 482 of Cr.P.C to provide adequate police protection for fencing the patta land of the petitioner in R.S.NO.2/1C in Adaikakuzhi Village, Vilavancode Taluk, Kanyakumari District based on the representation of the petitioner dated 28.11.2015.

For Petitioner	: Mr.S.Sivakumar
For Respondent	
Nos.2 & 3	: Mr. K.N.Thampi
For R1	: Mr.K.Anbarasan,
	Government Advocate(Crl. Side)

ORDER

Today M/s.Prema, Inspector of Police, Kollemcode Police Station, Kanyakumari District is present.

2.It is seen that Mr.Rasal Raj, the petitioner herein, has filed a petition in Crl.O.P.(MD)No.12613 of 2016 against the respondent / Police for a direction to provide police protection for fencing his patta land in R.S.No.2/1C in Adaikakuli Village, Vilavancode Taluk, Kanyakumari District.



3. It is the case of the petitioner that he has taken possession of the property in question in E.P.No.66 of 2014 in O.S.No.55 of 1977 on 15.10.2015 and since then he is in enjoyment of the said property. In Crl.O.P.(MD)No.12613 of 2016, this Court has passed the following order on 26.07.2016:

WEB COPY "3. The petitioner who has taken a landed property through Court in E.P.No.66 of 2014 in O.S.No.55 of 1977 on 15.10.2015, is seeking police protection for the purpose of fencing his property.

4. As the land has been taken by the petitioner through Court, there cannot be any legal impediment to decide the right of possession.

5. However, apprehension is expressed that one Kamalabai, the seventh defendant in the suit, may create problems in fencing the property of the petitioner.

6. The decree passed by the Court below in E.P.No.66 of 2014 in O.S.No.55 of 1977, is binding upon the opponent kamalabai.

7. Under such circumstances, for the limited purpose of fencing the property, the second respondent is directed to give protection to the petitioner.

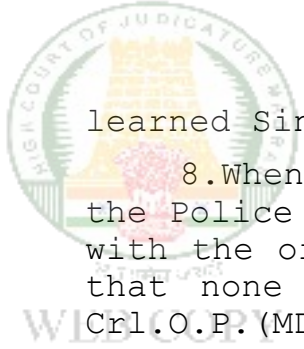
8. This Criminal Original Petition is disposed of with the above direction."

4. Now the petitioner has filed the present Contempt Petition against the respondent / Police alleging that they have violated the order dated 26.07.2016 passed by this Court in Crl.O.P.(MD)No.12613 of 2016.

5. On coming to know of this Contempt Petition, one Nesamony and Kamala Bai intervened and submitted that Nesamony was a party in O.S.No.55 of 1977 and that he was not shown as party in Crl.O.P.(MD) No.12613 of 2016, which was filed by the petitioner and the order dated 26.07.2016 has been obtained behind his back. Therefore, this Court suo motu impleaded the said Nesamony and Kamala Boi as respondent Nos.2 and 3 in Cont.P.(MD)No.1608 of 2016.

6. Heard Mr.S.Sivakumar, learned counsel for the petitioner, the learned Additional Public Prosecutor for the 1st respondent Police and Mr.K.N.Thampi, learned counsel for the Nesamony and Kamala Boi.

7. It is seen that final orders have been passed in E.P.No.66 of 2014 in favour of the petitioner. However, the learned counsel for the petitioner submitted that against the judgment and decree in O.S.No.55 of 1977 an appeal suit in A.S.No.120 of 2015 has been filed and the same is pending before the Sub Court, Kulithurai. He also submitted that challenging the order in E.P.No.66 of 2014 a Civil Revision Petition in C.R.P.(MD)Nos.2378 to 2382 of 2015 have been filed before this Court and orders have been reserved by the



learned Single Judge.

8. When the matter is at that level, this Court cannot expect the Police to give police protection to the petitioner in compliance with the order dated 26.07.2016 especially in the light of the fact that none of the contesting parties were made as respondents in Cr1.O.P.(MD)No.12613 of 2016. Therefore, this is not a fit case to issue statutory notice to the 1st respondent / Inspector of Police, Kollemcode Police Station under the Contempt of Courts Act.

9. In the result, this Contempt petition is closed and the 1st respondent is discharged.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

+1cc to Mr.S.SIVAKUMAR in SR. NO.17252

+1cc to Mr.K.N.THAMBI in SR. No.17004

NBJ

JS/GT/SAR.2/7.7.2017/3P-3C

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22.03.2017