

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.12.2018

CORAM
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.20305 of 2018

1.N.Kannan

2.D.Rani

...Petitioners

Versus

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

2.The Inspector of Police,
Sholinghur Police Station,
Vellore District.

3.D.Rajamani

4.D.Jayavel

5.R.Malarkodi

6.Ramesh

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the 1st respondent to provide adequate police protection to the petitioner's life and put up the compound wall of the property situated in Survey No.1, Kondapalayam Village, Wallaga Taluk, Vellore District totally to an extent of 2.38 acres pursuant to the Decree of the Civil Court in O.S.No.222 of 1998, A.S.No.22 of 2009 and S.A.No.758 of 2014.

For Petitioners : Mr.B.Sundarapandiyan

For R1 & R2 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For R3 to R6 : M/s.S.Deepika

O R D E R

This petition has been seeking for police protection against the respondents 3 to 6.

2.It is seen from the records that there were Civil Suit proceedings between the parties in O.S.No.222 of 1998, which was

filed by the petitioners herein and O.S.No.27 of 1999 filed by the 4th respondent and others. Both the suits were disposed by a common Judgment dated 28.09.2007. In the suit filed by the petitioner, the 3rd respondent is the defendant. The Suit was filed for declaration and for permanent injunction. The Suit filed by the petitioner was decreed by the Judgment and Decree dated 28.09.2007 and the suit filed by the other side was dismissed. Aggrieved by the same, the other side filed two appeals in A.S.No.22 of 2009 and A.S.No.2 of 2009. Both the appeals came to be dismissed by Judgment and Decree dated 13.03.2013. Aggrieved by the same, the Second Appeal was filed before this Court in S.A.No.758 of 2014. This Court by Judgment dated 20.09.2014, confirmed the Judgment and Decree of the trial Court. With that the entire Civil proceedings came to be an end.

3.It seems that the 3rd and 4th respondents, who are the parties to the suit have sold the property to the 5th and 6th respondents and respondents 3 to 6 are now again interfering with the possession and enjoyment of the petitioners. Therefore, a complaint has been given by the petitioners to the respondent Police on 12.06.2017 and also 12.07.2018 seeking for police protection. Since, no action has been taken by the respondent Police, the present petition has been filed by the petitioner before this Court.

4.The learned counsel for the petitioners would submit that once the Judgement of the Civil Court has become final, the same binds the parties and parties cannot thereafter take law into their own hands and interfere with the possession and enjoyment of the petitioners. The learned counsel for the petitioner in order to substantiate the submission, relied upon the Judgment of this Court Radhika Sri Hari & another Versus The Commissioner of Police, Coimbatore City, Coimbatore & another reported in 2014-2-L.W page 927.

5.The learned counsel for the respondents 3 to 6 submitted that the property is yet to be demarcated and is in the possession of the several parties and therefore the petitioners do not have any right for police protection. The learned counsel for the respondents 3 to 6 further submitted that even now the patta stands in the name of these respondents and therefore no direction should be given by this Court.

6.It is an admitted fact that the proceedings before the Civil Court has come to an end and the Judgment and Decree of the trial Court has been confirmed upto this Court in Second Appeal, in the year 2014. The parties are bound by the Judgment and Decree of the Civil Court.

7.It will be useful to rely upon by the Judgment cited supra by the learned counsel for the petitioner and relevant

portion is extracted here under:-

"6.The reliance placed on decision referred to by the learned counsel for contesting respondents is misplaced. While it is true that pending civil proceedings, this Court would not interfere in exercise of jurisdiction under Section 482 Cr.P.C., the instant is a case, wherein the right of the petitioners to property stand crystallised under order of S.A.No.855 of 1977. Pursuant to subsequent proceedings in W.P.No.7356 of 2012, the property of the petitioners came to be demarcated under proceedings of the appellate authorities viz Town Sub Inspector of Survey, Coimbatore East. Such official act has been challenged by way of contempt proceedings and the same stand dismissed. It is not the contention of learned counsel for contesting respondents that pursuant to the order in

Cont.P.No.1444 of 2012, they have moved any civil forum. However, he would submit that contesting respondents are poor people pitted against the affluent persons in whose aid the police agency also is working.

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."

8.The above Judgment squarely applies to the facts of the present case. The respondents 3 and 4 cannot be permitted to take the same stand taken by them before the Civil Court. This Court is not presently adjudicating the inter se dispute between the parties and the same has already become final before the Civil Court.

9.In view of the above this Criminal Original Petition is allowed and there shall be a direction to the 2nd respondent to give proper instructions to the respondents 3 to 6 not to interfere with the possession and enjoyment of the petitioners. If in spite of the same, there is any interference on the side of the respondents 3 to 6, the 2nd respondent shall take action in accordance with law. If required the 2nd respondent shall also provide police protection to the petitioners.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

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

2.The Inspector of Police,
Sholinghur Police Station,
Vellore District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Deepika, Advocate, S.R.No.84930

+1cc to Mr.B.Sundarapandiyar, Advocate, S.R.No.84988

CrI.O.P.No.20305 of 2018

rrs 14/12/2018