

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

CrI.O.P.No.28785 of 2017

M/s.Raahul Foundations Private Limited,
Represented by its Director,
Mr.A.Ravi Krishnakumar,
Having registered office at
No.37/17, 3rd Main Road, Kasturibai Nagar, Adyar,
Chennai - 600 020. .. Petitioner

Vs.

1. The State represented by
The Inspector of Police,
E8, Kelampakkan Police Station,
Chennai.
2. Chandra Babu .. Respondents
(R2 is impleaded as per order
dated 11.01.2018 made in
CrI.M.P.No.194 of 2018 in
CrI.O.P.No.28785 of 2017)

PRAYER: Criminal Original Petition filed under Section 482 of
Cr.P.C. praying to direct the respondent police to give police
protection to the petitioner and his property admeasuring 37
cents in S.Nos.72/3C, 2B, 72/3C2C & 72/3C2E in Thiruvidanthai,
Semmancherry Village.

For Petitioner : Mr.R.Samithurai

For Respondent 1 : Mrs.P.Kritika kamal,
Government Advocate (CrI. side)

For Respondent 2 : Mr.S.Sadasharam

O R D E R

This petition has been filed by the petitioner to
respondent to give police protection to him and his property
admeasuring 37 cents in S.Nos.72/3C, 2B, 72/3C2C & 72/3C2E in
Thiruvidanthai, Semmancherry Village.

2. Heard Mr.R.Samithurai, learned counsel for the petitioner, Mrs.P.Kritika kamal, learned Government Advocate (Crl. side) for the first respondent and Mr.S.Sadasharam, learned counsel for the second respondent.

3. The petitioner claims right over the property in S.No.72/3C2 through three Sale Deeds bearing document Nos.10068, 10069 & 11447 of 2013 on the file of the Sub-Registrar, Thiruporur. When the petitioner attempted to put up a compound wall, there was an obstruction from the second respondent, owing to which, he had given a complaint to the first respondent, seeking for protection. Since the complaint was not considered in time, the present Criminal original Petition has been filed.

4. It is seen that earlier the second respondent had approached the Civil Court, seeking for decree of permanent injunction and same came to be dismissed against which second appeal had been preferred in S.A. No.1053 of 2005. This Court vide order dated 15.03.2013 was pleased to observe as follows:

"17. During the life time of Senthamarai Ammal, out of the entire 1 acre 64 cents, 31 cents were acquired by the Government. Thereafter, the plaintiff has engaged one Pooncholai to maintain the property. It is the further submission that Ex.A3 patta has been issued in favour of the plaintiff. According to him, even as per the admission of the second defendant, all the three daughters of Senthamarai Ammal, have taken 12 cents each and that they have obtained respective pattas. When individual patta has been granted to the defendants under Ex.A4, the plaintiff has objected to the same. The case of the appellant is that he has purchased 75 cents under the registered sale deed dated 10.11.1982. Whereas, the respondent has contended that Senthamarai Ammal had never executed any sale deed in favour of the plaintiff. It is the case of the respondents that Senthamarai Ammal had one son named Srinivasan and three daughters, who are the respondents. Husband of Senthamarai Ammal died, leaving behind, Senthamarai Ammal and three daughters. Srinivasan died after the death of his father and therefore, the respondents have contended that Senthamarai Ammal used to affix her thumb impression and that she was in the care and custody of the 2nd defendant and that the plaintiff had not taken care of Senthamarai Ammal. The plaintiff has not examined any witness to prove the sale deed dated 10.11.1982. Further, it is

not the case of the plaintiff that Senthamarai Ammal lived with him. The appellant has not produced any kist receipts for the suit property, excepting two receipts. The other two receipts filed by him are in respect of house tax. On analysis of evidence, this Court is inclined to accept the evidence of the defendants/respondents that the sale deed dated 10.11.1982, said to have been executed by Senthamarai Ammal is not true and valid."

5. As such, it is seen that the high court has already observed that the second respondent herein has proved his title vide sale deed dated 10.11.1982 through which, he claims right over the subject property.

6. Whenever a complaint is made to the respondent police, seeking for protection, on the basis of findings of the civil court, it would be appropriate that the police can take a decision in one way or other instead of keeping it pending indefinitely.

7. In the present case in hand, the petitioner herein is protected by the registered documents as well as the observations of this Court, wherein the petitioner's right has been proved, it would be appropriate that necessary protection be extended to the petitioner while putting up any construction, or for otherwise enjoyment of the subject property.

8. In the result, the Criminal Original petition stands allowed. The petitioner is granted liberty to approach the first respondent police seeking for necessary protection for putting up compound wall or for any other purpose for peaceful possession and enjoyment of the property situated in S.Nos.72/3C, 2B, 72/3C2C & 72/3C2E in Thiruvudanthai, Semmancherry Village. On receipt of such representation, the first respondent shall pass necessary and favourable orders, in the light of the above observations. If the first respondent is of the view that the second respondent requires to be heard, it is open to him to hear the second respondent, before passing such orders. Such exercise shall be completed within a period of one week from the date of receipt of such representation.

-s/d-

Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

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To

1.The Inspector of Police,
E8, Kelampakkan Police Station,
Chennai.

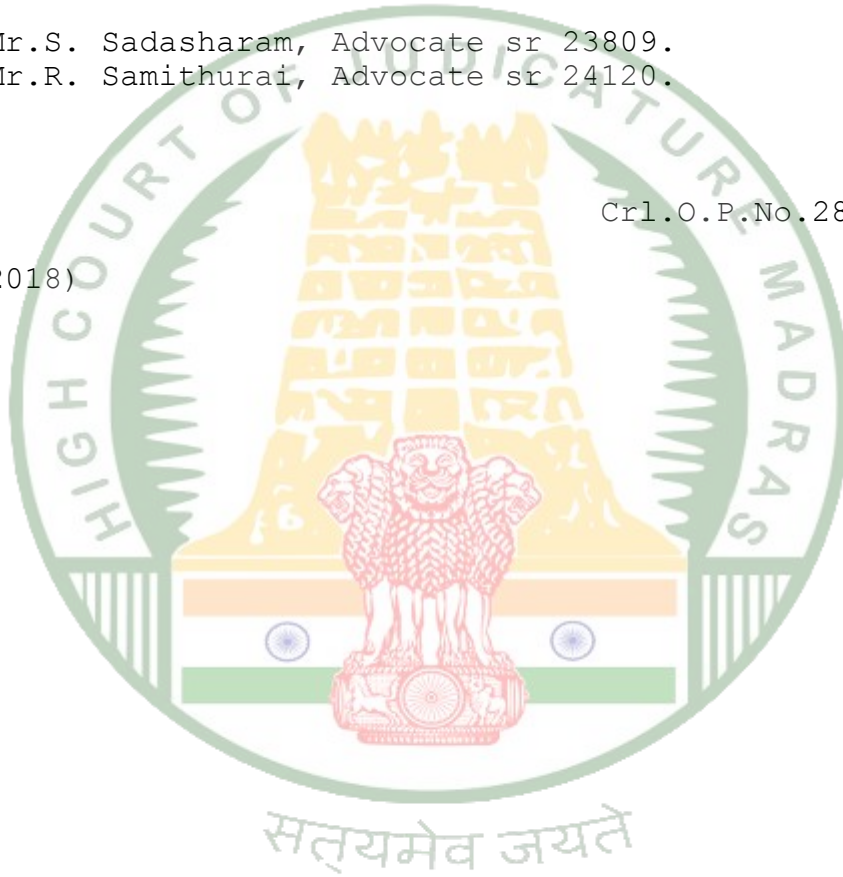
2.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.S. Sadasharam, Advocate sr 23809.

+1 CC to Mr.R. Samithurai, Advocate sr 24120.

Crl.O.P.No.28785 of 2017

SP(20/04/2018)



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