

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2018

CORAM:

THE HON'BLE MR.JUSTICE N. ANAND VENKATESH

CrI.O.P.No.24031 of 2018

Y.Akbar Ahmed

... Petitioner

Vs.

1.The Joint Commissioner of Police,
O/o. The Joint Commissioner of Police,
St. Thomas Mount,
Chennai - 600 016.

2.The Inspector of Police,
O/o. The Inspector of Police,
S1, St. Thomas Mount Police Station,
Chennai - 600 016.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the respondents to provide police protection to the petitioner and his Principals for constructing boundary / compound wall in the property comprised in Survey Nos.1825, 1826 and 1827 bearing Door Nos.5/64 and 5/64-A Magazine road, Butt Road, Chennai - 600 016.

For Petitioner : Mr.R.Gopinath

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed seeking for police protection to the petitioner to construct boundary / compound wall in the property situated in Survey Nos.1825, 1826 and 1827 bearing Door No.5/64 and 5/64-A Magazine road, Butt Road, Chennai - 600 016.

2. The petitioner claims himself to be the Power of Attorney agent of Ghayazullah and three others, who are the owners of the property comprised in Survey Nos.1825, 1826 and 1827 bearing Door No.5/64 and 5/64-A Magazine road, Butt Road, Chennai - 600 016. According to the learned counsel for the petitioner, one Mrs.Mehrunissa filed a suit in O.S.No.41 of

2001, on the file of the Sub Court, Chengalpet, seeking for relief of permanent injunction against the Jumma Masjid Committee, St. Thomas Mount, Pallavaram and had obtained a decree. Thereafter, the said Mrs.Mehrunissa has also filed a suit before the Wakf Tribunal, Chengalpet, as against the said Jumma Masjid Committee seeking for injunction restraining the said Jumma Masjid Committee from in any way obstructing the said Mrs.Mehrunissa from entering into the property. The learned counsel also brought to the notice of the Court, the proceedings initiated by the said Mrs.Mehrunissa in

R.C.O.P.No.57 of 1997 against one M/s J.E.Cladius, who was the tenant in the said property.

3. The learned counsel for the petitioner, after pointing out the above proceedings, would submit that in spite of the Civil Court order in favour of the said Mrs.Mehrunissa, the order of the Civil Court has not been implemented. In view of that, Jumma Masjid Committee is preventing the decree holder from enjoying the fruits of the decree.

4. The learned Additional Public Prosecutor, on instructions, would submit that there is a civil dispute with regard to the title over the property and therefore the police did not interfere with the said dispute.

5. It is seen from the records that the present petitioner claims to be the Power of Attorney agent of Ghayazullah and three others. This petition has been filed seeking for police protection to the petitioner in his capacity as the agent of the principals who are said to be the owners of the property.

6. It is not known as to why the principals have not approached this Court. It is seen from the records that every time, it is the petitioner in his capacity as agent is filing one petition or the other before this Court. This Court issues such direction for police protection in very serious issues involving the potential threat to the life and limb of the concerned person and the same can be granted in a rare case. If the principals have obtained any order from the Competent Civil Court and the same is resisted by certain persons, it is always open to the decree holder to execute the decree by filing an appropriate application under Order 21 Rule 32 C.P.C. Atleast the Executing Court will get an opportunity to assess the respective right of the parties. In this case, the nature of right that has been canvassed is something, which cannot be gone into by the respondent police. That apart, the principals who had given the Power of Attorney in favour of the petitioner must go and establish their right in person, in order to satisfy that they have obtained a proper decree from the Competent Civil

Court and the same is pending and they are not able to enjoy the fruits of the decree, inspite of receiving such favourable decree.

7. In the facts and circumstances of the case, this Court is not in a position to grant the relief as sought for by the petitioner. It is left open to the principals who have obtained a decree from the Competent Civil Court to work out their remedy before the Executing Court in the manner known to law. It is possible to file a petition for police protection even before the Executive Court for the purpose of ensuring that the decree holders are not prevented from enjoying the fruits of the decree and the very same relief sought for before this Court, can be sought before the Executing Court also. Atleast the Executing Court will have an opportunity to determine the respective right of the parties and thereafter pass an appropriate order.

8. With the above terms, this Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

nmm/dss

To

1.The Joint Commissioner of Police,
O/o. The Joint Commissioner of Police,
St. Thomas Mount,
Chennai - 600 016.

2.The Inspector of Police,
O/o. The Inspector of Police,
S1, St. Thomas Mount Police Station,
Chennai - 600 016.

3.The Additional Public Prosecutor
Madras High Court, Chennai.

+1cc to Mr.Gopinath, Advocate, S.R.No.77161

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CNR(CO)
GSP(06/12/2018)