

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.11.2018

CORAM:
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
Crl.O.P. No.26760 of 2018

V.Rajarajeswari

..Petitioner

vs.

The Inspector of Police, L & O.,
Korattur Police,
Korattur.

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to direct the respondent herein to provide necessary protection against any illegal trespass and occupancy in respect of the property situated in Survey No.678/4B, Korattur Village bearing Plot No.1 in the interest of justice.

For Petitioner : Mr.C.Rajan

For Respondent : Mr.C.Raghavan
Government Advocate

ORDER

This petition has been filed seeking for police protection.

2. It is seen from the records that the petitioner has become the owner of the property in the year 2006 by virtue of sale deed dated 06.09.2006. According to the petitioner, one Mettu Jayasankar has been illegally trying to trespass into the property and based on the false complaint given by him, the respondent police have registered a First Information Report against the brother of the petitioner in Crime No.905 of 2018.

3. The learned Counsel for the petitioner would submit that the petitioner has also given a complaint against the said Mettu Jayasankar and the respondent police has not taken any action on the complaint. The learned counsel would further submit that the respondent police is supporting the said Mettu Jayasankar and they are not taking any steps nor preventing the said Mettu Jayasankar from illegal trespass into the property. Therefore, the petitioner is left with no option except to file this Criminal Original Petition seeking for the relief of police protection.

4. The learned Government Advocate would submit that on the basis of the complaint given by one Murugesan, an First Information Report is pending in Crime No.905 of 2018 and the police is investigating the case. The learned counsel would further submit that the petitioner cannot directly approach this Court seeking for Police protection since it involves the right over the property and the police cannot decide the same.

5. This Court has carefully considered the submissions on either side.

6. The petitioner is seeking for Police protection on the ground that she is the absolute owner of the property by virtue of the registered sale deed dated 06.09.2006. The grievance of the petitioner is that the above said Mettu Jayasankar is attempting to commit criminal trespass into the property and thereby depriving the right of possession and enjoyment over the property. The petitioner has also given a complaint in this regard before the respondent police on 31.10.2018 seeking for police protection. No action has been taken by the respondent Police on the complaint given by the petitioner.

7. This Court cannot grant the relief as sought for by the petitioner at this stage. The petitioner has to necessarily workout her remedy before the appropriate Jurisdictional Magistrate Court by filing application under Section 156(3) of Cr.P.C., if the respondent police is not acting on the complaint given by her, in spite of the cognizance of offence made out in the complaint. The guidelines given by the Hon'ble Division Bench in CrI.O.P.(MD)No.13681 of 2018 and batch of cases dated 20.09.2018 will have to be followed by the petitioner. The police protection as sought for by the petitioner will have to be considered only after any First Information Report is registered in this case. It is also open to the petitioner to file an appropriate suit seeking for injunction against the above said Mettu Jayasankar, since the specific case of the petitioner is that he is trying to interfere with the possession and enjoyment of the property in an illegal manner. Therefore, the petitioner has to work out her remedy in the manner suggested by this Court.

7. This Criminal Original Petition is disposed of, with the above directions.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbn/kal

To

1.The Inspector of Police, L & O.,
Korattur Police,
Korattur.

2.The Public Prosecutor,
Madras High Court,
Chennai.

+2ccs to Mr.C.Rajan, Advocate, S.R.No.78623

Cr1.O.P. No.26760 of 2018

GS II(CO)

rrs 06/12/2018



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