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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2018

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THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.31032 of 2018 and
W.M.P.No.36209 of 2018

K.R.Selvaraj Kumar

...Petitioner

Versus

1.The Commissioner of Police,
Commissioner Office,
Chennai City,
Vepery, Chennai - 600 007.

2.The Inspector of Police,
N-2, Kasimedu Police Station,
Kasimedu,
Royapuram, Chennai - 600 013.

3.D.Jayakumar,
Hon'ble Minister (Fisheries Department),
Tamil Nadu Government,
Secretariat, Chennai - 600 009.

...Respondents

PRAYER : Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 1st respondent to give police protection to the petitioner and the members of the party men on 19.11.2018 or any other date at the convenient of the 1st respondent for opening of his party office at No.15/18, Main Street, A.J.Colony, Royapuram, Chennai - 600 013.

For R1 & R2 : Mr.A.Natarajan
Special Public Prosecutor Assisted by

Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed seeking for a direction to the 1st respondent give Police protection to the petitioner and also to the members of the party for the purpose of reopening the party office at No.15/8, Main Street, A.J.Colony, Royapuram, Chennai - 600 013.



2.The learned counsel for the petitioner would submit that the petitioner became the owner of the property by virtue of a registered sale deed dated 21.03.2012. Thereafter, the patta was also issued in favour of the petitioner by the Tahsildar of Fort-Tondiarpet, during July 2012. The learned counsel for the petitioner would further submit that the Electricity Bill and also the other statutory payments are being made by the petitioner only from the above said property and the receipts issued, would show that the petitioner is in possession and enjoyment of the property.

3.The learned counsel would further submit that the petitioner wanted to open the party office in the above said property and therefore a representation was made before the respondent Police on 04.10.2018, seeking for Police protection, for the purpose of opening the party office. The said representation has been rejected by the respondent Police by the impugned proceedings dated 25.10.2018 and therefore the present Writ Petition has been filed challenging the said proceedings and seeking for appropriate orders.

4.The learned Public Prosecutor Mr.A.Natarajan representing for the 1st and 2nd respondent would submit that there is a serious dispute with regard to the title over the property. The learned Public Prosecutor brought to the notice of this Court the Judgment and Decree passed in O.S.No.6700 of 2012, by the learned VI Assistant Judge City Civil Court, Chennai. The said suit has been filed by Mrs.Sathiyavani and seven others against the petitioner herein and one Gandhimathy. The said suit has been filed for a declaration to declare the sale deed dated 21.03.2012 executed in favour of the petitioner as null and void and for a permanent injunction restraining the defendants from in any way interfering with the peaceful and possession and enjoyment of the property. This suit was contested by the petitioner and the other defendant and after a detailed trial, the Court below by a Judgment and Decree dated 29.11.2012 decreed the suit as prayed for by declaring the sale deed executed in favour of the petitioner as null and void and also granted permanent injunction restraining the defendants from interfering with the possession and enjoyment of the property.

5.The learned Public Prosecutor by pointing out the above Judgment, would submit that there is a very serious dispute with regard to the title and possession of the property and therefore the respondent Police have rightly rejected the permission sought for by the petitioner. The learned Public Prosecutor would further submit that the 2nd respondent has also taken into consideration a compliant that has been given by the said Sathiyavani, who has filed the suit against the petitioner and the 2nd respondent had thought it fit not to grant any Police



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protection for opening of the party office. The learned Public Prosecutor would further submit that apart from a serious dispute with regard to the right, title and interest over the property, if any such Police protection is granted, it will unnecessarily lead to a law and order problem and the Police cannot side with any party in this case.

6.This Court has carefully considered the submissions made on either side. On a careful scrutiny of the documents produced before this Court and also after considering the submissions made on either side, this Court is of the considered view that there is a serious dispute with regard to the title and possession over the property. Eventhough the learned counsel for the petitioner would submit that right from the beginning, the petitioner is in possession and enjoyment of the property, the Court below has granted the relief of permanent injunction also in favour of the said Sathiyavani and others. This relief was granted by the Court below only after giving a finding that the said Sathiyavani and others are in possession and enjoyment of the property. The learned counsel for the petitioner also submitted that an appeal has been filed against the Judgment and Decree of the trial Court. Till the appeal is disposed of and the right, title and possession of the property is found in favour of the petitioner, the respondent Police will have no right to interfere in a case of this nature. More particularly due to the fact that already a Judgment and Decree of a competent civil Court stands in favour of Sathiyavani and others and against this petitioner.

7.It is also seen from the records that immediately after the petitioner made arrangements for opening the party office, the said Sathiyavani had given a complaint before the respondent Police against this petitioner on 08.10.2018 and the Police have also issued a C.S.R.497 of 2018. The Police have also conducted an enquiry based on the complaint and the petitioner also appeared for the said enquiry.

8.Under such circumstances, the Police cannot now grant any Police protection in favour of the petitioner, since it will tantamount to going against the Judgment and Decree passed by the Court below. The Police can only grant Police protection, if the petitioner is in the possession and enjoyment of the property. Now a competent civil Court has found that the petitioner is not in possession and enjoyment of the property. Therefore the police cannot even consider the representation made by the petitioner, seeking for police protection.

9.The petitioner has to necessarily workout his remedy only before the competent civil Court by filing an appeal and challenging the Judgment and Decree of the trial Court. Till the petitioner succeeds in the appeal, the petitioner will have



no right to seek for any relief as sought for in this Writ Petition. The 2nd respondent has rightly rejected the representation given by the petitioner. This Court does not find any ground to interfere with the impugned proceedings of the 2nd respondent.

10. In the result, this Court does not find any merit and accordingly this Writ Petition stands dismissed and consequently, the connected Miscellaneous Petition is also closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vv2/rpl

To

1. The Commissioner of Police,
Commissioner Office,
Chennai City,
Vepery, Chennai - 600 007.
2. The Inspector of Police,
N-2, Kasimedu Police Station,
Kasimedu,
Royapuram, Chennai - 600 013.
3. D. Jayakumar,
Hon'ble Minister (Fisheries Department),
Tamil Nadu Government,
Secretariat, Chennai - 600 009.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr. K. Mageshwaran, Advocate sr.no.80265
+1cc to The Public Prosecutor, sr.no.80346

W.P.No.31032 of 2018

gp(co)
nr 17/12/2018