

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2018

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.27250 of 2018

Ayyanar

.. Petitioner

Vs

1. The Superintendent of Police,
Office of the Superintendent of Police,
Kancheepuram District.
2. The Deputy Superintendent of Police,
Vandalur @ Guduvancherry.
3. The Inspector of Police
Guduvancherry Police Station,
Kancheepuram District.
4. Sriramalu .. Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the Respondents 1 to 3 to give adequate police protection to the petitioner as against the 4th Respondent and his men from in any manner interfering the petitioner's house site situated in S.No.25/5B2 to an extent of 0.2.50 Hectare under Patta No.8307 in Ayancherry Village, Chengalpet Taluk, Kancheepuram District.

For Petitioner : Mr.R.Ganesan
For Respondents : Mr.M.Mohamed Riyaz
Addl. Public Prosecutor

O R D E R

This petition has been filed seeking for police protection to the petitioner.

2. It is seen from records that the petitioner is a retired Senior Manager, who was working in Bank of Baroda and he has been in possession and enjoyment of the property along with his family. The 4th respondent started interfering with the possession and enjoyment of the property and filed a suit in O.S.No.4 of 2002, on the file of the learned District Munsif,

Chengalpattu for a declaration and consequential injunction against the petitioner. The suit was dismissed after a full-fledged trial by a judgment and decree dated 30.01.2012.

3. Thereafter, the 4th respondent filed an appeal in A.S.No. 8 of 2012, on the file of the Additional Subordinate Court, Chengalpet and the appeal was also dismissed by judgment and decree, dated 06.08.2016.

4. According the learned counsel for the petitioner, the judgment and decree of the Civil Court has become final and no further appeal is pending before this Court. In spite of losing before the Civil Court, the 4th respondent continues to interfere with the possession and enjoyment of the petitioner and also causing threat to the petitioner. Therefore, the petitioner gave a complaint to the 3rd respondent on 15.10.2018 and the 3rd respondent was also issued CSR.No.1109 of 2018. Since no action has been taken, the present petition has been filed seeking for police protection.

5. The 4th respondent having lost before two Courts, cannot take law in his own hands and continue to interfere with the possession and enjoyment of the petitioner and cause threat to the petitioner. It will be useful to rely upon the judgment of this Court in Radhika Sri Hari and another vs. Commissioner of Police, Coimbatore City, Coimbatore reported in 2014 (2) CTC 695, the relevant portion is extracted here under.

6. The reliance placed on decision referred to by the learned Counsel of contesting Respondents is misplaced. While it is true that pending Civil proceedings, this Court would not interfere in exercise of jurisdiction under Section 428, Cr.P.C., the instant is a case, wherein the rights 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."

6. In view of the above judgment, the petitioner is entitled for protection. Therefore the 3rd respondent is directed to call the parties for an enquiry and instruct the 4th respondent not to interfere with the possession and the enjoyment of the petitioner and not to cause any threat to the petitioner. If in spite of the same, the 4th respondent continues to disturb the possession of the petitioner, the 3rd respondent is directed to take action against 4th respondent in accordance with law and if required, also grant police protection to the petitioner.

7. In view of the above this Criminal Original Petition is disposed of.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

ssr/kal

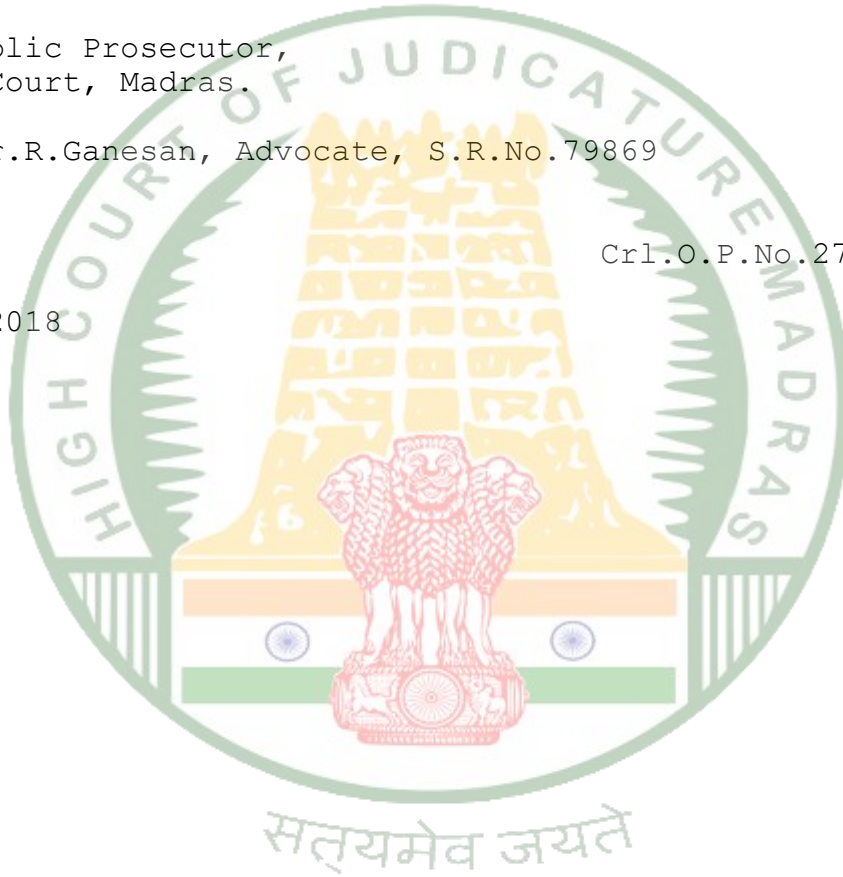
To

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3. The Inspector of Police,
Guduvancherry Police Station,
Kancheepuram District.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Ganesan, Advocate, S.R.No.79869

Crl.O.P.No.27250 of 2018

CS/28/11/2018



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