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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.26953 of 2018

C.Abilash

... Petitioner

-Vs-

1.The Superintendent of Police,
Thiruvallur District.

2.The Inspector of Police,
Gummudipoondi Police Station,
Thiruvallur District.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the second respondent police to take immediate action on the petitioner's complaint dated 06.09.2018 and give police protection for construction of compound wall in the northern side of the petitioner's land an extent of 747 sqft. Out of 3 Acre 11 Cents in respect of Survey No.559A situated at No.75, Old Gummudipoondi Village, Gummudipoondi Taluk, Thiruvallur District.

For Petitioner : Mr.R.Velu

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

ORDER

This Criminal Original Petition has been filed seeking for police protection for construction of compound wall in the property of the petitioner.

2. The learned counsel for the petitioner would submit that he filed a suit for partition in O.S.No.1 of 2002 before the Sub-Court, Ponneri claiming for 2/3rd share in the property, a preliminary decree was passed in favour of the petitioner. Thereafter, the petition for final decree was filed by the petitioner and a final decree was also passed in I.A.No.408 of 2010 on 27.06.2017. The property was divided by mets and bounds by the Advocate Commissioner and the petitioner was also allotted his share in the property. It was challenged by one Chittibabu @ Devarajulu by filing A.S.No.19 of 2017 and the same



was dismissed by the IV Additional District Judge, Ponneri by Judgment and Decree dated 02.04.2018. Thereafter, it was again confirmed by this Court in M.P.No.1 of 2013 in S.A.(SR)No.18538 of 2013 and was dismissed by an order dated 07.01.2014. Thereby the entire civil proceedings have come to the end.

3. Even thereafter the above said Chittibabu @ Devarajulu is interfering with the possession and enjoyment of the petitioner and is not permitting the petitioner to put up a compound wall. That apart, he has also threatened the petitioner with dire consequence. The petitioner had given a complaint on 06.09.2018 to the respondent police seeking for police protection and the respondent police inspite of issuing a CSR receipt, has not taken any action on representation made by the petitioner. Therefore the present petition has been filed before this Court.

4. The facts of the case are squarely covered by the judgment of this Court reported 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



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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."

5. In view of the above, the possession and enjoyment of the petitioner in the property cannot be disturbed by any one, since, the petitioner's right in the property has been confirmed by a competent Civil Court.

6. The second respondent is directed to call the parties for enquiry and instruct Chittibabu @ Devarajulu not to interfere with the possession and enjoyment of the property of the petitioner. If, inspite of the same, the said Chittibabu @ Devarajulu continuous to interfere and cause threat to the petitioner, necessary action may be taken against him accordance with law. If necessary, the second respondent may also provide police protection to the petitioner.

7. With the above direction, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

vsa/LLP



To

1.The Superintendent of Police,
Thiruvallur District.

2.The Inspector of Police,
Gummudipoondi Police Station,
Thiruvallur District.

3.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.R.Velu, Advocate Sr.No.80748

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CSL/13.12.2018