



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

தேவநகரம் Tuesday, the Third day of April Two Thousand and Eighteen

WEB COPY

CORAM :

The Hon`ble Mr.Justice S.S.SUNDAR

SUB A(MD) No.79 of 2018
IN
CONT P(MD) No.362 of 2018

JEYARAMAN

... PETITIONER

Vs

SENBAGAVELAN,
STATION HOUSE OFFICER,
MELAVALAVU POLICE STATION,
MADURAI DISTRICT.

... RESPONDENT

Prayer in SUB A(MD) No.79 of 2018:

Sub Application is filed under Section 151 of Civil Procedure Code praying this Hon'ble Court to appoint an Advocate Commissioner to inspect the property in S.No.560/1A in Kidaripatti village, Tamaraipatti Sub-Registration District, Madurai North Registration District and ascertain Physical nature of the property and report before this Honble Court.

Prayer in CONT P(MD)No.362/ 2018 :

Contempt Petition is filed under Section 11 of Contempt of Courts Act, 1971 praying this Hon'ble Court to punish the Contemnor/Respondent for his wilful disobedience of the order of the Honourable Court in Crl.OP(MD) No.9583 of 2017 dated 25.07.2017

Prayer in CRL OP(MD)No.9583/ 2017 :

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code praying this Hon'ble Court to direct the Respondent Police to complete the Investigation in Crime No.151/2017 and consequently direct the Respondent police to file final report before the Judicial Magistrate, Melur, Madurai District within stipulated time framed by this Honorable Court.

ORDER : This Petition coming on for hearing on this day, upon perusing the affidavit and material papers filed, and upon hearing the arguments of Mr.RM.ARUN SWAMINATHAN, Advocate for the petitioner



and of M/s.ANANTHA DEVI, Government Advocate on behalf of the Respondent, this court made the following order:-

This petition has been filed for appointment of Advocate Commissioner to inspect the property in Survey No.560/1A in Kidaripatti Village, Thamaripatti Sub-Registration District, Madurai North Registration District to ascertain the physical features of the property and to report before this Court.

2.The petitioner in this Sub Application is the petitioner in the contempt petition. Earlier, this Court on 25.07.2017, in Crl.O.P (MD).No.9583 of 2017, has passed an order and the same is as follows:

"3.The learned counsel for the petitioner submitted that though the complaint was registered on 10.05.2017 in Crime No.151 of 2017 for the offences under Sections 427, 447 and 506(i) I.P.C., read with Section 3 and 4 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992, there was no progress in the investigation and charge sheet was also not filed.

4.The learned Government Advocate(Crl.Side) on instructions, would submit that if a reasonable time is given, the respondent will be able to complete the investigation and file the final report.

5.Recording the submission of the learned Government Advocate(Crl.Side) appearing for the respondent, this Court directs the respondent to complete the investigation in Crime No.151 of 2017 and to file the final report within a period of four months from the date of receipt of the copy of this order".

3.Pursuant to the direction of this Court, it appears that no further investigation was conducted. Hence, the petitioner moved the contempt petition before this Court to punish the respondent for willful disobedience of the order of this Court, dated 25.07.2017. After contempt was moved before this Court and after notice was issued to the respondent, it appears that the respondent has closed the complaint as Action Dropped on 13.11.2017.

4.In the status report filed by the respondent before this Court, it is stated that the respondent perused the relevant records and enquired with the Surveyor, VAO and the Revenue Inspector. It is further stated that the investigation of the respondent reveals that the occurrence alleged to have taken place is in the land in Survey No.560/1B measuring to an extent of 1 acre 58 cents and that the said land in Survey No.560/1B is owned by a third party, who was given joint patta. Since there is no incident of cutting of trees in the land belonging to the petitioner, it is stated in the report that the complaint was closed as Action Dropped.



5. The learned counsel appearing for the petitioner submitted that in the process of enquiry, the respondent has not even enquired the petitioner, who has given the complaint.

6. In the said circumstances, the petitioner has filed this petition for appointment of Advocate Commissioner to inspect the property in Survey No.560/1A in Kidaripatti Village, Thamaripatti Sub-Registration District, Madurai North Registration District, so that, he will be in a position to substantiate the truth in his complaint that was lodged before this Court and would show how the respondent has taken side while complying with the direction of this Court. Hence, this petition.

7. Having regard to the facts and circumstances of the case and Government machinery is used by land grabbers, this Court is satisfied that this petition is required to secure the interest of justice and Advocate Commissioner has to be appointed to visit the property in Survey No.560/1A in Kidaripatti Village, Thamaripatti Sub-Registration District, Madurai North Registration District, with the assistance of the Taluk Surveyor to identify the property and to ascertain the physical features in the property concerned.

8. Hence, Mr.A.Arumugam, Advocate, No.108, Law Chamber, Madurai, is appointed as Advocate Commissioner to inspect the property situated in Survey No.560/1A in Kidaripatti Village, Thamaripatti Sub-Registration District, Madurai North Registration District with the help of Taluk Surveyor to ascertain the physical features and other aspects that may be required for the purpose to find out whether trees standing in the property of the petitioner in Survey No.560/1A in Kidaripatti Village, Thamaripatti Sub-Registration District, Madurai North Registration District have been cut and removed or not.

9. The Advocate Commissioner is directed to inspect the property and submit a detailed report along with photographs, if necessary, on or before 24.04.2018.

10. The learned counsel for the petitioner is directed to pay a sum of Rs.15,000/- (Rupees Fifteen Thousand Only) as initial remuneration to the Advocate Commissioner.

11. Post the matter on 24.04.2018.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar



TO

1. THE JUDICIAL MAGISTRATE, MELUR.
2. THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
3. SENBAGAVELAN,
STATION HOUSE OFFICER,
MELAVALAVU POLICE STATION,
MADURAI DISTRICT.
4. THE SURVEYOR,
MADURAI NORTH TALUK, MADURAI.
5. THE GOVERNMENT PLEADER,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO :-

MR.A.ARUMUGAM, ADVOCATE COMMISSIONER,
No.108, LAW CHAMBER,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI - 625 023

ORDER DATED : 03.04.2018
HEARING DATE : 24.04.2018

ORDER

SUB A(MD) No.79 of 2018 IN
CONT P(MD) No.362 of 2018

TE/JC/SAR-3 : 09/04/2018 : 4P/7C