

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.OP.No.7873 of 2016
and
CRL.M.P.No.6163 of 2016

G.Baskaran

... Petitioner

Vs.

1.The Superintendent of Police,
Jaya Nagar,
Thiruvallur - 602 001.

2.The Inspector of Police,
Mutha Pudu Pet Police Station,
Avadi - 55.
Thiruvallur Dt.

3.V.Ponnammal

4.V.Suresh

5.V.Ramesh

(Impleaded 3 to 5 as respondents
as per order of this Court dated 12.7.2016
in Crl.M.P.No.6163/16 in Crl.O.P.No.7873/16)

.... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to direct the respondents to give police protection to the life and liberty of the petitioner and his men or agents at the time of carrying out cleaning work and fencing work in the petitioner's property situated at 40 cents, 20,555 sq.ft. No.48, 1/167-A, Erikuppam, Pandeswaram Village, Avadi-55, Thiruvallur District.

For Petitioner : Mr.R.Sreedhar

For Respondents: Mr.M.Mohamed Riyaz for R1 & R2
Additional Public Prosecutor

Mr.G.Palani for R3 to R5

O R D E R

The Criminal Original Petition has been filed to direct the respondents to give police protection to the life and liberty of the petitioner and his men or agents at the time of carrying out cleaning work and fencing work in the petitioner's property situated at 40 cents, 20,555 sq.ft. No.48, 1/167-A, Erikuppam, Pandeswaram Village, Avadi-55, Thiruvallur District.

2.Heard, Mr.R.Sreedhar, learned counsel appearing for the petitioner, Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the first and second respondents and Mr.G.Palani, learned counsel appearing for the respondents 3 to 5 and perused the materials available on record.

3.It is seen that the third respondent herein, filed a suit in O.S.No.232 of 2006 before the District Munsif Court, Ambattur for declaration and the same was dismissed on 08.02.2008. The respondents 3 to 5 herein, filed another suit in O.S.No.449 of 2010 before the District Munsif Court, Ambattur for permanent injunction and the same was also dismissed on 23.09.2013. It is further seen that though the two suits were dismissed, the respondents 3 to 5 are in possession and enjoyment of the suit property and thereafter the respondents 3 to 5 have preferred an appeal in unnumbered A.S.of 2013 and the same is pending.

4.This Court by an order dated 13.03.2019, has appointed the Advocate Commissioner to inspect the suit property and to note down the physical features and as to who is in possession of the property. Accordingly, the Advocate Commissioner has inspected the suit property and filed his report on 22.04.2019. The relevant portion of the report is extracted hereunder:

"Out of the entire premises the Respondents No.3 to 5 are only having possession of the Concrete roof Building/house of 6 Cents (approximately) with separate compound walls are raised, and one tile home is about 2 Cents and 200 Sq.Ft thatch hut (approximately) used for cattle breeding. And the remaining portion are kept idle, which is inside of the entire premises Situated at Door No.48, 1/167A, Erikuppam, Pandeswaram Village, Avadi-55, Thiruvallur District, where the entire premises are newly fenced with painted concrete pillars for every 5 feet once. The fenced painted concrete pillars were damaged very recently."

5.It is also seen from the Advocate Commissioner's report that the respondents 3 to 5 are still in possession and enjoyment of the suit property. He also found that the fenced painted concrete pillars were damaged very recently.

6.Under these circumstances, now the petitioner seeking police protection to fence the suit property. Admittedly, there is a civil dispute between the petitioner and the respondents 3 to 5. Therefore, the prayer sought for in this petition cannot be granted till the outcome of final verdict in the civil proceedings. Accordingly, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

7.The respondents 3 to 5 shall pay the additional remuneration of Rs.10,000/- (Rupees ten thousand only), within a period of one week to the Advocate Commissioner.

pam

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Superintendent of Police,
Jaya Nagar,
Thiruvallur - 602 001.
- 2.The Inspector of Police,
Mutha Pudu Pet Police Station,
Avadi - 55.
Thiruvallur District.
- 3.The Public Prosecutor,
High Court, Chennai-104.

+1cc to Mr.R.Sreedhar, Advocate, SR.No.38567 &38568
+1cc to Mr.G.Palani, Advocate, SR.No.38926
+1cc to Mr.R.Sreedhar, Advocate, SR.No.38567

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Kak (23/07/2019)

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