

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6861 of 2019

M.S.Sivasubramanian

.. Petitioner

Vs

The Inspector of Police,
Thirumullaivoyal,
Chennai.

.. Respondent

Prayer:

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to direct the respondent to initiate action against the trespassers in order to retrieve the property measuring 23 Grounds comprised in Survey No.676/1A1A1A2 and Survey No.679/1A1B of Thirumullaivoyal Village and in order to enable the petition to re-fence with police protection based on C.S.R.No.258/2019.

For Petitioner : Mr.V.Ramesh for
Mr.A.Selvendran

For Respondent : Mr.C.Raghavan
Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed seeking for police protection on the basis of the Civil Court Decree.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent.

3. The learned counsel for the petitioner would submit that the petitioner is a power holder of the original owners of the property comprising Survey No.676, New Survey No.676/1A1A1A2, measuring 76 cents and Old Survey No. 679, New Survey No.679/1A1B of Thirumullaivoyal Village, measuring 1.07 acres in all measuring 1.83 acres. While being so, a group of Narikuravas trespassed into the land in the year 1989, as such, the suit was filed in O.S.No.12 of 1989 and the same was decreed. After 25 years, the Narikuravas filed an appeal suit

in A.S.No.50 of 2016 for recovery of possession. Pending appeal, there was a compromise between the petitioner and the Narikuravas. The appeal was disposed of by recording the compromise memo. The compromise memo filed by both the parties reads as follows :

"1.The appeal may be disposed after recording this compromise and after recording that the appellant/defendant is an encroacher of the suit schedule property.

2.In view of the compromise, the respondent/plaintiffs are forgoing their claim in respect of land measuring 23800 sq.ft. In Survey No.676/1A1A1A2 in T.S.No.13, coloured Blue in the sketch attached and marked as "B" schedule property with measurements and boundary contained in this Memo of Compromise having access through the 20 feet road on the west of this schedule.

3.The appellant and its member shall take over and divide between themselves the land referred to in the "B" schedule property as house site for their use and enjoyment.

4.The appellant/defendant and its members have no right, title and interest in the land comprised in Survey No.679/1A1B in T.S.No.8 measuring 46690 sq.ft and Survey No.676/1A1A1A2, T.S.No.13 measuring 9363 sq.ft totalling 56053 sq.ft marked Yellow in the sketch attached along with this compromise memo and referred to as Schedule "C" in this compromise.

5.Both parties relieve the other parties from all the respective mutual obligations referred to in the suit in O.S.No.111 of 1998 and this appeal.

6.Both parties have no claim whatsoever in respect of the property allotted to the other party referred to in the Schedule "B & C" respectively as the defendant and its members have handed over vacant possession of the "C" schedule property measuring 56053 sq.ft to the agent of the 3rd respondent in the appeal viz., Mr.M.S.Sivasubramanian, the 4th respondent herein.

7.The appellant undertakes to withdraw the suit in O.S.No.493 of 2011 pending before the District Munsif Court, Ambattur.

8.Both parties agree to enjoy the respective schedule properties quietly and peacefully without any let or interference or hindrance from the other party.

9.It is open to the parties herein to register this compromise decree to be passed by this Hon'ble Court before the concerned Registrar Office under the Indian Registration Act.

10.Based on this compromise and apportionment of the property between the parties, it is open to the parties herein to deal with their respective schedule properties in the manner which the parties may decide to enjoy and incorporate their names as owners in the revenue records in respect of B & C schedule properties."

Accordingly, the appeal suit is ordered. Even then, the Narikuravas entered into the property and caused disturbance to the petitioner's possession and enjoyment of the said property. Therefore, the petitioner sought for police protection and filed a complaint before the respondent police on 07.03.2019. After receipt of the complaint, the respondent police has given C.S.R.No.258 of 2019 and they did not provide any police protection to the petitioner for enjoying the property.

4. This Court already held in 2014(2) CTC 695 "Radhika Sri Hari and another Vs. Commissioner of Police, Coimbatore City, Coimbatore" that, सत्यमेव जयते

"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."

8. What is informed above makes clear that the petitioner would be entitled to police protection as prayed for. Criminal Original petition is allowed. There will be a direction to respondents to provide police protection to the petitioners for a period of three weeks from the date of receipt of a copy of this order towards enabling them raising fresh barbed wire fences on their property. The same will be at the cost of the petitioner."

5. Considering the above facts and circumstance of the case, this Court is inclined to grant police protection to the petitioner for enjoying the property on the basis of the Civil Court decree. It is made clear that the Narikuravas were dispossessed from the above said property and they have no power to retrieve the said property again from the petitioner except due process of law.

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

Sd/-

सत्यमेव जयते Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

mpa/lpp

To

1. The Inspector of Police,
Thirumullaivoyal,
Chennai.

2. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.A.Selvendran, Advocate, S.R.No.24401

Crl.O.P.No.6861 of 2019

KJ(CO)
CS/27/03/2019



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