

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.15604 of 2018

K.Sengottuvelappan

...Petitioner

-Vs-

1. The Director General of Police,
Chennai.
2. The Inspector General of Police,
West Zone, Coimbatore,
Coimbatore District.
3. The Superintendent of Police,
Erode, Erode District.
4. The Inspector of Police,
Chithodu Police Station,
Chithodu, Erode District.
5. Kandasamy
6. Kumarasamy

(5th and 6th respondents are impleaded
as per order in Crl.M.P.No.8270 of 2018 in
Crl.O.P.No.15604 of 2018, dated 28.06.2018).

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the 4th respondent to give protection to the petitioner leading normal life at the petitioner's residence and to cultivate the lands owned by the petitioner and the same to be monitored by the respondents 1 to 3.

For Petitioner : Mr.A.Sundaravadhanan
For Respondents 1-4 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For Respondent-5 : Mr.Deepan Uday

For Respondent-6 : Mr.C.S.Saravanan

ORDER

This Criminal Original Petition has been filed to direct the 4th respondent to give police protection to the petitioner leading normal life at the petitioner's residence and to cultivate the lands owned by the petitioner and the same to be monitored by the respondents 1 to 3.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor for the respondents 1 to 4 and the learned counsel for the respondents 5 and 6 and perused the materials available on record.

3. It is seen that the respondents 5-Kandasamy and 6-Kumarasamy had filed a suit in O.S.No.283 of 1994 on the file of the learned Principal District Munsif, Erode, for declaring that the settlement deed dated 20.01.1994 executed by the petitioner's maternal grand-father in favour of the petitioner is null and void. The said suit was dismissed by an order dated 24.02.1998, as against which the respondents 5 and 6 had preferred an appeal in A.S.No.83 of 1998 on the file of the learned Principal District Munsif, Erode and the same was dismissed by an order dated 28.10.1998 and confirmed the judgment and decree was passed by the Trial Court in O.S.No.283 of 1994. As against which the respondents 5 and 6 had preferred in S.A.No.715 of 1999 and the same was dismissed by this Court by an order dated 20.02.2018. On the strength of the settlement deed executed by the petitioner's maternal grand-father, the petitioner is in possession and enjoyment of the property which was settled in his favour by the settlement deed dated 20.01.1994 on the file of the Sub-Registrar, Perundurai, in Document No.67, 68 and 69 of 1994 as void ab initio and for permanent injunction. Therefore, this Court deem fit to direct the 4th respondent/Inspector of Police to consider the complaint lodged by the petitioner and provide adequate police protection to the petitioner on payment of necessary charges.

4. In this regard the learned counsel appearing for the petitioner relied upon the judgment reported in 2014-2-L.W.927 in the case of Radhika Sri Hari & another Vs. The Commissioner of Police, Coimbatore, which reads as follows :-

"6. The reliance placed on decision referred to by the learned counsel for contesting respondents is misplaced. While it is true that pending civil proceedings, this court would not interfere in exercise of jurisdiction under Section 482 Cr.P.C, the instant is a case, wherein the right of the petitioners to property stand crystallised under order in 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 not 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."

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."

This Court held that when there is a civil Court decree, the police should give protection to implement the same. The police should not insist on a specific Court direction to give protection.

5. In view of the above, this Court is inclined to allow this petition and subsequently the 4th respondent is directed to give police protection to the petitioner leading normal life at the petitioner's residence and to cultivate the lands owned by the petitioner and the same to be monitored by the respondents 1 to 3 forthwith.

6. With the above directions, the Criminal Original Petition is allowed.

Sd/-

Assistant Registrar(AD IV)

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सत्यमेव जयते

Sub Assistant Registrar

msm
To

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1. The Director General of Police,
Chennai.
2. The Inspector General of Police,
West Zone, Coimbatore,
Coimbatore District.

3. The Superintendent of Police,
Erode, Erode District.

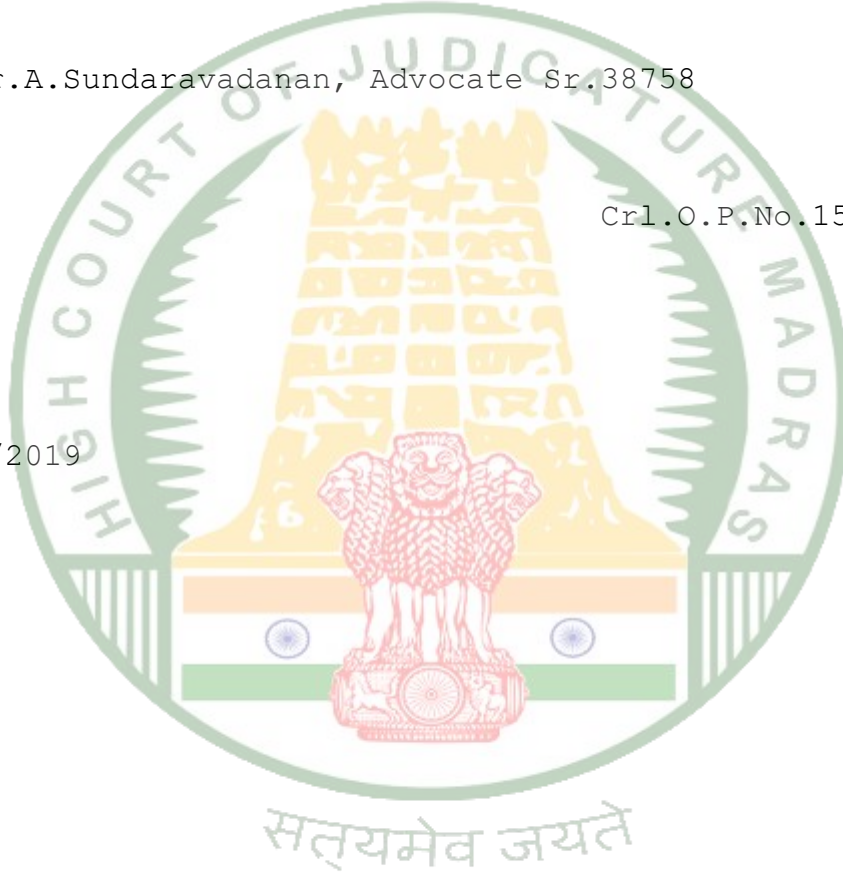
4. The Inspector of Police,
Chithodu Police Station,
Chithodu, Erode District.

5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.Sundaravadanan, Advocate Sr.38758

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