

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.9165 of 2019

Antoine Antony

... Petitioner

Vs.

1.Station House Officer,
Ariancoupam Police Station,
Pondicherry - 605 001.

2.Kuppusamy

3.Mohan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the first respondent to give protection to the properties of the petitioner, consisting of casuarinas trees from being unlawfully cut or damaged by the respondents 2 and 3 in 197/1A, 197/2 in Manaveli Revenue Village, Ariancoupam, Pondicherry.

For Petitioner : Mr.K.Sukumaran

For Respondents : Mr.V.Balamurugane
Additional Public Prosecutor (Puducherry)

O R D E R

This Criminal Original Petition has been filed to direct the first respondent police to give police protection for cultivating process on the basis of the civil Court decree.

2.It is seen that one Mohan filed suit in O.S.No.1153 of 2016 on the file of II Additional District Munsif, Pondicherry, on the footing that they are in possession as cultivating tenant and a suit for permanent injunction was filed. Pending suit, I.A.No.162 and 163 of 2016, filed for ad-interim injunction and the said applications were dismissed by the learned Munsif on 23.12.2016. Against the said order, the respondents 2 and 3 did not prefer any appeal and the same has become final. Pending suit, respondents 2 and 3 will cause damage to the trees belonging to the petitioner and his 2 brothers, the petitioner

gave a complaint on 28.02.2019. After the dismissal of the injunction application filed by the respondents 2 and 3 in I.A.No.162 and 163 of 2016 in O.S.No.1153 of 2016 by order dated 23.12.2016, the third respondent gave a false complaint against the petitioner in Crime No.101 of 2018 for the offences under Section 341 and 324 read with 34 of IPC on the file of the first respondent. Therefore, he lodged complaint and seeking police protection.

3. 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.

4. In view of the above, this Court is inclined to allow this petition and subsequently the first respondent is directed to provide adequate police protection to the petitioner for cultivating process in the land in S.Nos.197/1A, 197/2 in Manaveli Revenue Village, Ariancoupam, Pondicherry, forthwith.

सत्यमेव जयते

Sd/-

Assistant Registrar

//True Copy//

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Sub Assistant Registrar

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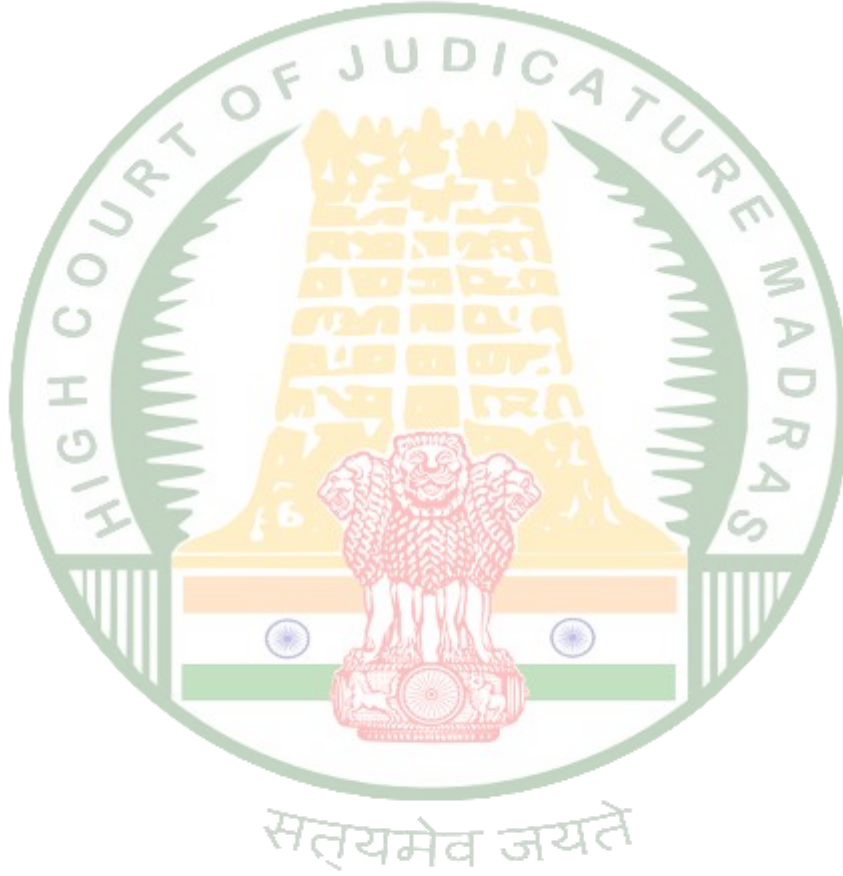
1. The Station House Officer,
Ariancoupam Police Station,
Pondicherry - 605 001.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Sumaran, Advocate, S.R.No. 32886
+1cc to The Public Prosecutor, S.R.No. 33612

CRL.O.P.No.9165 of 2019

SV(CO)
GN(28/05/2019)



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