

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.9616 of 2019

S.Khaja Moideen

... Petitioner

Vs.

1. The Commissioner of Police,
O/o.The Commissioner of Police,
Veperi, Chennai.

2. The Inspector of Police,
Nazarathpet Police Station,
Nazarathpet, Chennai-123.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the 2nd respondents to provide adequate police protection to the petitioner, while fencing his property situated at Nazarathpet Village, Poonamallee Taluk, Thiruvallur District in Gramma Natham S.No.10 ad-measuring about 2592 s.Q.ft bounded on North by: Mahalakshmi Ammal House site, South by: Durai Naicker's House Site, East by: Chokkalingam Reddiar's house site and West by: Ravi's house site in pursuant to the order in E.P.No.28 of 2015 in O.S.No.543 of 2004 that property delivered, report produced by delivery recorded and closed the E.P. dated 27.04.2016 passed by the learned Principal District Munsiff at Poonamallee and thereby in pursuant of the petitioner's police complaint dated 18.03.2019.

For Petitioner : Mr.P.A.Chitramani

For Respondents : Mr.Mohammed Riyaz
Additional Public Prosecutor.

O R D E R

This Criminal Original Petition has been filed to direct the 2nd respondent police to give police protection for fencing his property on the basis of the Civil Court decree.

2. It is seen that the petitioner filed a suit in O.S.No.543 of 2004 for specific performance as against the

defendants 1 to 5. Finally the suit was decreed on 22.01.2014 and thereby directing the defendant 1 to 3 to execute the sale deed infavour of the petitioner and the defendants 4 and 5 defendants is null and void. The learned Principal District Munsif at Poonamallee had executed the sale deed dated 27.03.2015 in his favour through the E.P. proceedings in E.P.No.11 of 2014 O.S.543 of 2004 on the file of SRO, Poonamallee vide doc.No.1149 of 2015 in respect of property in Gramma Natham S.No.10 ad-measuring about 2592 s.Q.ft. While so, the 4th defendant one A.Kumari and her son frequently disturbing the petitioner's possession by way of pouring drainage water in his property. In this regard, the petitioner gave a complaint before the Commissioner of Police, Vepperi, Chennai on 18.03.2019 along with enclosing the trial court decree and E.P order. Since, no action has been taken, the present petition is filed.

3. In this regard the learned counsel appearing for the petitioner relied upon a 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 2nd respondent is directed to provide adequate police protection to the petitioner for fencing his property situated at Nazarathpet Village, Poonamallee Taluk, Thiruvallur District.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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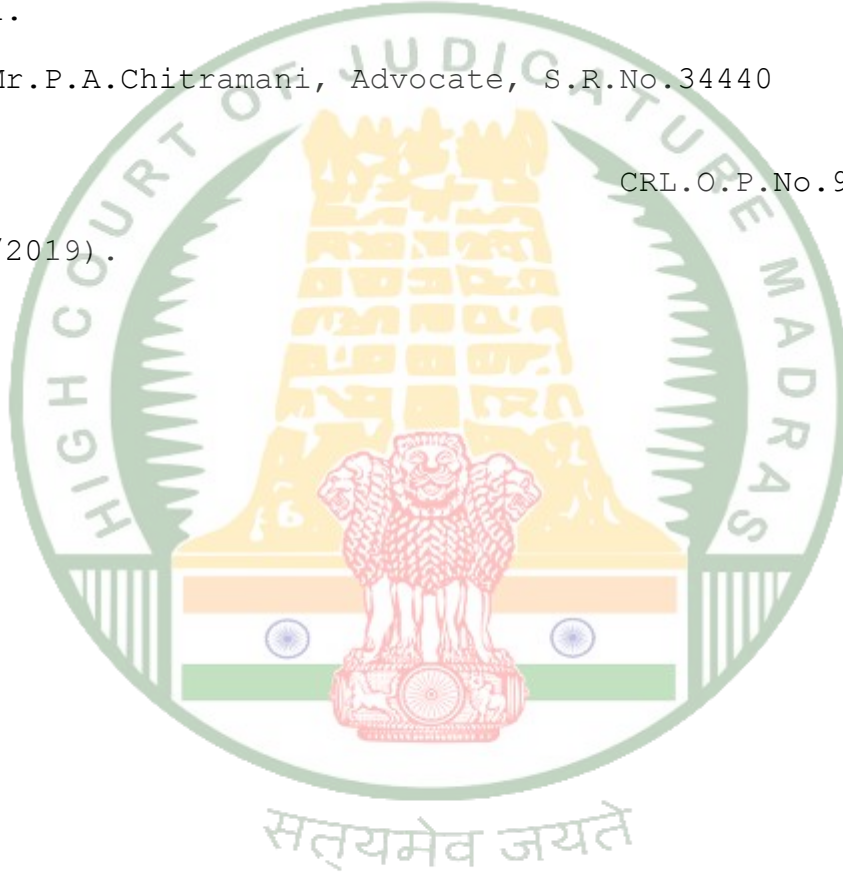
To

1. The Commissioner of Police,
O/o.The Commissioner of Police,
Veperi, Chennai.
2. The Inspector of Police,
Nazarathpet Police Station,
Nazarathpet, Chennai-123.
3. The Public Prosecutor,
High Court of Madras,
Chennai.

+1 cc to Mr.P.A.Chitramani, Advocate, S.R.No.34440

GJ-II(CO)
SSM(20/05/2019).

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