

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.10576 of 2019

N.Ravikumar

... Petitioner

Vs.

The Inspector of Police,
Nallipalayam Police Station,
Nallipalayam,
Namakkal District. ... Respondents

Prayer :- Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondent police to provide adequate police protection to the petitioner to enter into his land in S.No.31/7B1 & 31/7A1 from Salem to Namakkal National Highway through his land in S.No.31/7C1 by using the common pathway in S.No.31/7A1 for the purpose of taking Cattle, Cart and Tractor by virtue of judgement dated 18.08.2015 passed by the Hon'ble High Court of Madras in S.A.No.379 of 2009, which was confirmed by the Hon'ble Supreme Court of India by order dated 27.10.2017 in SLP(C) No.1731 of 2016.

For Petitioner :Mr.S.Senthil

For Respondents :Mr.C.Raghavan
Government Advocate (Cr1.side)

O R D E R

This petition has been filed seeking police protection to the petitioner to enter his land as per the order by this Court in S.A.No.379 of 2009, which was confirmed by the Hon'ble Supreme Court of India in SLP(C) No.1731 of 2016.

2.The learned counsel for the petitioners submitted that the petitioner is the absolute owner of the lands comprised in S.No.31/7C, 31/7C1, 31/7A1 and 31/7B1 situated at Pappinayakkapatti Village, Namakkal Taluk and District and he is cultivating the agricultural lands. There is a common pathway in South to North direction between the lands, which is the only pathway to reach the petitioner's lands. Since there was a dispute in using this path way, the petitioner has filed a suit for declaration and injunction in O.S.No.627 of 2002 as against one Doraisami and his family members and the said suit was

dismissed. As against the said suit, the petitioner filed A.S.No.116 of 2005 before the Sub Judge, Namakkal, who confirmed the findings of the trial Court, modified the decree holding that the petitioner herein was entitled to use the said pathway only as a pathway and not entitled to take cart, cattle or vehicles through the said common pathway. Aggrieved over the same, the petitioner filed a second appeal in S.A.No.379 of 2009, which was allowed and modified to the extent that the petitioner is permitted to use the north south common pathway for the purpose of taking cattle, cart or tractor to reach his land. Against the said order, the defendants in the suit viz., Doraisamy and family filed SLP(C)No.1735 of 2016 before the Hon'ble Supreme Court of India and the same was dismissed by an order dated 27.10.2017 thereby confirming the order passed in S.A.No.379 of 2009. Even obtaining an order permitting him to use the common pathway, the petitioner was prevented and threatened by the defendants of the suit. In this regard, the petitioner has given a representation to the respondent on 25.02.2019. Since no action has been taken, the petitioner has filed the present petition with the aforesaid prayer.

3.Heard both sides.

4.Considering the facts and circumstances of the case, without going into the merits of the case, the respondent Police is directed to conduct enquiry with the counter part on the basis of the representation of the petitioner dated 25.02.2019 and pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of copy of this order.

5.This Criminal Original Petition is disposed of with the above direction.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

rm

To

1.The Inspector of Police,
Nallipalayam Police Station,
Nallipalayam,
Namakkal District.

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2.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.S.Senthil, Advocate sr 39476.

Cr1.O.P.No.10576 of 2019

SS (CO)
SP (29/05/2019)



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