

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.17555 of 2019

and

Cont.P.No.1211 of 2019

Cr1.O.P.No.17555 of 2019

V.Prabakaran

....Petitioner

vs.

1.The Assistant Commissioner of Police,  
Avadi Range, Avadi,  
Chennai - 600 054.

2.The Inspector of Police,  
Avadi Tank Factory Police Station,  
Avadi, Chennai - 600 054.

3.R.Saroja

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to direct the 1<sup>st</sup> and 2<sup>nd</sup> respondents Not to interfere with the civil disputes pending between the petitioner and the 3<sup>rd</sup> respondent pertaining to the property in old S.No.434/4 in new S.No.434/6C situated at Morai village.

Cont.P.No.1211 of 2019

V.Prabakaran

....Petitioner

vs.

1.S.John Sundar,  
Assistant Commissioner of Police,  
Avadi Range, Avadi,  
Chennai - 600 054.

2.S.Jay Krishnan,  
Inspector of Police,  
Avadi Tank Factory Police Station,  
Avadi, Chennai - 600 054.

.. Respondents

PRAYER: Contempt Petition is filed under Section 11 of the Contempt of Court's Act, 1971, to punish the Respondents for their willful disobedience of the order made in Cr1.O.P.No.17555 of 2019 dated 15.07.2019.

For Petitioner : Mr.R.Vivekananthan in  
Crl.O.P.No.17555/2019  
Mr.S.Ilamvaluthi in Cont.P.No.1211/2019  
(in both the cases)

For Respondents : Mr.M.Mohamed Riyaz  
Additional Public Prosecutor  
(for R1 & R2 in both the cases)

Mr.D.Senthil Kumar  
(for R3 in Crl.O.P.No.17555/2019)

COMMON ORDER

This criminal original petition has been filed for a direction to the respondent police not to interfere with the civil disputes pending between the parties.

2.It is seen from records that for the property in Survey No.434/4 (New Survey No.434/6C) situated at Morai Village, Thiruvallur District, apart from the petitioner, there are three other persons who are claiming ownership of the property. All these four owners have instituted suit in O.S.Nos.211, 212, 213 and 214 of 2016 against the 3<sup>rd</sup> respondent, before the District Munsif Court, Ambattur and the said suits are pending. In the meantime, the 3<sup>rd</sup> respondent approached this Court and filed Crl.O.P.No.7934 of 2019 seeking for police protection to fence her property. This Court by order dated 25.03.2019 directed the respondent police to consider the representation of the 3<sup>rd</sup> respondent and provide police protection.

3.The grievance of the petitioner is that the 3<sup>rd</sup> respondent has obtained the order before this Court by concealing all the civil proceedings pending between the parties and by not adding the petitioner as a party in the criminal original petition. Pursuant to the orders passed by this Court, there was an interference by the respondent police and therefore the petitioner has filed the present criminal original petition seeking for a direction to direct the respondent police not to interfere with the civil dispute between the parties.

4.This Court by order dated 15.07.2019 passed an order of status quo and directed the parties to maintain the status quo until further orders are passed in the criminal original petition. The contempt petition has been filed before this Court on the ground that inspite of the orders passed by this Court to maintain status quo, the 3<sup>rd</sup> respondent has proceeded to put up a wall with the help of the police and thereby the petitioner's access to the property has been completely prevented. Therefore,

according to the petitioner, there was a willful disobedience of the order passed by this Court by the contemnors.

5.The learned counsel for the petitioner submitted that the 3<sup>rd</sup> respondent has completely misused and abused the process of law and has obtained an order behind the back of the petitioner. The learned counsel for the petitioner submitted that the very same 3<sup>rd</sup> respondent had approached this Court on two earlier occasions seeking for a similar prayer and orders were also passed by this Court in W.P.No.35888 of 2015 and Crl.O.P.No.15704 of 2017. The 3<sup>rd</sup> respondent approached this Court and filed Crl.O.P.No.7934 of 2019 seeking for police protection to fence the property. In this petition, the petitioner was not made as a party and an order was obtained behind back of the petitioner. The learned counsel therefore submitted that the order passed by this Court in Crl.O.P.No.7934 of 2019 has been obtained by playing fraud on the Court and therefore the said order has to be recalled by this Court.

6.The learned counsel appearing on behalf of the petitioner in the contempt petition submitted that this Court had passed an order of status quo on 15.07.2019. In spite of the order of status quo, the 3<sup>rd</sup> respondent with the help of the contemnors proceeded to put up a compound wall around the property on 15<sup>th</sup>, 16<sup>th</sup> and 17<sup>th</sup> July 2019 and thereby the access to the property has been completely cut off. Therefore, the learned counsel submitted that there is a willful disobedience of the order passed by this Court and therefore the contemnors will have to be punished and the property has to be restored to its original State.

7.The learned counsel appearing on behalf of the 3<sup>rd</sup> respondent submitted that the 3<sup>rd</sup> respondent is the owner of the property in Survey No.434/6A and she has nothing to do with Survey No.434/6C. The learned counsel further submitted that the petitioner has no right over this property and it is not correct on the part of the petitioner to create an impression as if a compound wall has been constructed in the property of the petitioner and the access of the property has been prevented.

8.The learned Additional Public Prosecutor submitted that the respondent police have merely acted upon the orders passed by this Court in Crl.O.P.No.7934 of 2019 and have given police protection. The learned counsel further submitted that the respondents/contemnors did not disobey the orders of this Court and no protection was granted after the orders were passed by this Court on 15.07.2019. If at all there was any violation of order, it was only the 3<sup>rd</sup> respondent who had committed the contempt and the police had no role to play in it.

9.This Court has carefully considered the submissions made on either side and the materials placed on record.

10.It is very clear from the records that the 3<sup>rd</sup> respondent has been approaching this Court on a very regular basis right from the year 2015 onwards and getting various orders behind back of the owners of the property in Survey No.434/6C. The 3<sup>rd</sup> respondent had initially filed W.P.No.16185 of 2015 and obtained an order on 15.06.2015. Subsequently she filed W.P.No.35888 of 2015 and obtained another order on 05.04.2016. Thereafter she filed Crl.O.P.No.15704 of 2017 and obtained an order on 14.12.2017 and finally she approached this Court by filing Crl.O.P.No.7934 of 2019 and obtained an order on 25.03.2019 and with the help of this order, she has managed to get police protection and she has also managed to construct the wall in the property in Survey No.434/6C at Morai Village, Thiruvallur District. The process adopted by the 3<sup>rd</sup> respondent is a complete abuse and she has virtually misused the jurisdiction of this Court under Article 226 of the Constitution of India and under Section 482 of Code of Criminal Procedure. It is unfortunate that the 3<sup>rd</sup> respondent did not even reveal before this Court the pendency of the suits in O.S.Nos.211, 212, 213 and 214 of 2016. The 3<sup>rd</sup> respondent was able to get an order in Crl.O.P.No.7934 of 2019, even without adding the petitioner as a party. It is also seen that in all the above said petition, the 3<sup>rd</sup> respondent has shown her property as S.No.434/6C and whereas she is claiming ownership for the property in Survey No.434/6A. This itself shows that the 3<sup>rd</sup> respondent has approached this Court with unclean hands and she has misused the jurisdiction of this Court.

11.It is also unfortunate that the respondent police should not have acted upon the orders passed by this Court in Crl.O.P.No.7934 of 2019 and they should have brought to the notice of this Court about the earlier orders obtained by the 3<sup>rd</sup> respondent. However, the respondent police for reasons best known to them, chose to assist the 3<sup>rd</sup> respondent enabling her to put up the wall around the property. All these events have happened when the civil suits are pending before the competent civil Court. What the 3<sup>rd</sup> respondent was not able to obtain before the civil Court, has been achieved by her by getting orders before this Court, by filing writ petition and criminal original petition on a regular basis.

12.In view of the above, this Court has no other alternative except to recall the orders passed in Crl.O.P.No.7934 of 2019 dated 25.03.2019. In view of the order being recalled, whatever advantages the 3<sup>rd</sup> respondent was able to achieve by virtue of the order, must also be taken away. In other words the status of the property as it stood before the orders were passed in Crl.O.P.No.7934 of 2019 has to be restored.

13.In the result, this Criminal Original Petition is allowed and there shall be a direction to the respondent police not to interfere with the civil disputes pending between the parties and it is left open to the parties to agitate their rights before the civil Court where the suits are pending. Whatever construction has been put up by the 3<sup>rd</sup> respondent after the orders were obtained from this Court, will have to be demolished by the 3<sup>rd</sup> respondent and the status as was prevailing before the filing of the Crl.O.P.No.7934 of 2019 shall be restored. No construction shall be put up in the property without the final adjudication in the pending civil suits.

14.In view of the above findings, the Contempt Petition No.1211 of 2019 is closed.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

vs

To

1.The Assistant Commissioner of Police,  
Avadi Range, Avadi,  
Chennai - 600 054.

2.The Inspector of Police,  
Avadi Tank Factory Police Station,  
Avadi, Chennai - 600 054.

3.The Public Prosecutor,  
High Court, Madras.

Copy to

1.The Sub Assistant Registrar  
Original Side, High Court, Madras 104.

2.The Section officer  
Original Side, High Court, Madras 104.

+2 Ccs to Mr.R.Vivekananthan, Advocate sr 66072.

+2 Ccs to Mr.D.Senthil Kumar, Advocate sr 65893.

Crl.O.P.No.17555 of 2019

and

Cont.P.No.1211 of 2019

VGI (CO)

SP(08/08/2019)