

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2019

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P. No.18195 of 2019

V.G.Thirumalai

.. Petitioner

-Vs-

1. The Superintendent of Police,
Kancheepuram,
Kancheepuram District.

2. The Inspector of Police,
Chengalpattu Taluk Police Station,
Kancheepuram District.

3. V.K.Thamizhmani

..Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct respondents 1 and 2 to provide police protection to construct the compound wall, as sought for in the representation dated 27.06.2019 given by the petitioner.

For Petitioner : Mr.M.Babu Muthu Meeran

For Respondents: Mr.M.Mohamed Riyaz,
APP for R1 & R2

ORDER

This petition has been filed seeking for police protection.

2. It is seen from the records that the petitioner has already approached this Court by filing a petition in Crl.O.P.No.915 of 2018 seeking for police protection. This Court passed the following order on 21.06.2018:-

"4. On 03.07.2015, this Court passed a detailed order in Crl.OP.No.13607 of 2015, wherein, it has observed that the land in question belong to Ninthimathi, wife of V.G.Thirumalai and that Kathirvel (A1) had impersonated Sivaprakasam and registered a settlement dated in respect of the said property in favour of his children, in connection with which, a

case in Crime No.19 of 2010 was registered and the same has culminated in C.C.No.38 of 2015. Similarly, when one of the sons of Kathirvel (A1) executed a release deed in respect of the same property, this Court went into this aspect in Crl.OPNo.9241 of 2017 on 11.07.2017. Thus, there are prima facie materials to show that the property originally belongs to Ninthimathi and that Kathirvel (A1) and his sons had created a fabricated document to take possession.

5. The learned counsel for the petitioner submitted that now, Ninthimathi has given a settlement deed in favour of the petitioner (husband) since it is difficult for her to manage the property.

6. The learned counsel for the third respondent submitted that a suit in O.S.No.174 of 2011 is pending between the parties.

7. This issue has also been considered by this Court in Paragraph No.7 of the order dated 03.07.2015 in Crl.OP.No.13607 of 2015. Under such circumstances, when there are repeated encroachments into the petitioner's property, it is paramount duty of the police to give protection to the petitioner for construction of fence or compound wall. Accordingly, the police is directed to give sufficient protection to the petitioner for putting up compound wall around the said property."

3. Thereafter, the order was brought to the notice of the concerned Police and the Revenue Officials. The Tahsildar, Chengalpet, by his proceedings dated 27.02.2019, intimated to the respondent Police the order passed by this Court and requested the police to provide police protection in order to survey the property and to put up a compound wall around the property.

4. In the mean time, without revealing the order passed by this Court and the pending criminal case, one V.K.parthasarathy, who is also shown as one of the accused in Crime No.516 of 2015, which was registered based on the complaint given by the petitioner, approached this Court for a direction to the respondent Police not to harass in a civil dispute. It is important to note that this petition was filed by concealing all the earlier orders and also the criminal case pending against the accused persons.

5. Since this Court was not informed the entire facts, a routine order came to be passed in Crl.O.P.No.8146 of 2019 on

27.03.2019 to the effect that the respondent Police should not harass the said Parthasarathy, when a civil dispute is pending.

6.The learned counsel for the petitioner submitted that in view of the above order, the earlier order passed by this Court directing the respondent Police to give police protection to survey the land and to put up compound wall has been completely stalled. Left with no option, the present petition has been filed before this Court.

7.The earlier order passed by this Court in Crl.O.P.No.8146 of 2019 was obtained by not revealing the entire facts before this Court. This Court has already passed an order directing police protection to be given to the petitioner for putting up the fence/compound wall around his property and the same has already been taken cognizance by the Revenue Officials and the respondent of Police. While this order is in force, a contra order has been obtained without revealing the earlier order passed by this Court.

8.This Criminal Original Petition is disposed of with a direction to the second respondent to provide police protection to the petitioner for conducting survey of the land by the Revenue Authorities and for putting up compound wall around the property.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Superintendent of Police,
Kancheepuram,
Kancheepuram District.
2. The Inspector of Police,
Chengalpattu Taluk Police Station,
Kancheepuram District.
3. The Public Prosecutor,
High Court , Madras,
Chennai.

+1cc to Mr.Babu Muthu Meeran, Advocate, SR.No.58528

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Kak(05/08/2019)