

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Crl.O.P.No.23349 of 2019

1.S.Nataraj
2.S.Eswaran
3.S.Dhandapani

...Petitioners

Versus

1.The Superintendent of Police,
Erode, Erode District.
2.The Deputy Superintendent of Police,
Perunthurai,Erode District.
3.The Inspector of Police,
Varapalayam Police Station, Erode District.
4.The Sub-Inspector of Police,
Varapalayam Police Station, Erode District.
5.Velmurugan
6.Lakshman
7.Asraf
8.Sakila Banu
9.Dhandapani

[The respondents 1 and 2 are not necessary parties
in this petition and their names are deleted.
Amended as per order in Crl.O.P.No.23349/2019
dated 29.08.2019]

10.The Tahsildhar,
Nambiyur, Erode.

...Respondents

[Suo-motu impleaded in this Crl.OP.No.23349/2019
as per order dated 27.09.2019]

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the 1st respondent to conduct an enquiry and give police protection to the petitioners and permit him to put up a compound fence for the property to an extent of 4 Acres located in Yaemaampoondi Village, N.S.No.97/2 (Old Survey No.81, b2), Erode District, in view of the petitioner's representation dated 14.08.2019.

For Petitioner : Mr.R.Vijayakumar

For R3, R4 & R10 : Mrs.V.Saratha Devi,
Government Advocate (Crl.Side)

For R5 to R9 : Mr.A.Gokula Krishnan

ORDER

This Criminal Original petition is filed seeking to direct the 1st respondent to conduct an enquiry and give police protection to the petitioners and permit him to put up a compound fence for the property to an extent of 4 Acres located in Yaemaampoondi Village, N.S.No.97/2 (Old Survey No.81, b2), Erode District, in view of the petitioner's representation dated 14.08.2019.

2.The grievance of the petitioners is that they are the lawful owner of the property in question, which is situated at Yaemaampoondi Village in Erode District in N.S.No.97/2 (Old Survey No.81, b2) ad-measuring extent of 4 acres, having acquired the same, through a registered sale deed in Document No.387 of 2007 dated 14.02.2007. From the date of purchase,

they have been in a peaceful possession and enjoyment of the said property. While that being so, it is stated that certain unknown persons have encroached upon the property and have been attempting to egress the petitioners from the property and they are under attempting to keep the petitioners property, without any right or title over the same.

3.In this connection, the petitioners herein had given a complaint to the third respondent, which came to be registered in F.I.R.No.199 of 2019 dated 04.09.2019, for the offences under Sections 147, 447 and 341 of IPC as against the five named persons, who have been impleaded as a respondents 5 to 9 herein. When the petitioners had approached the respondents 1 to 4 for fencing their property, no permission has been granted till date. Therefore the present Criminal Original Petition has been filed.

4.Learned counsel for the petitioners would submit that the encroachers have absolutely no right or title over the said property and in view of the interference, the petitioner is unable to enjoy his peaceful possession over the land. According to him, all the Revenue Records stand in their name absolutely and that the encroachers have no right or title over the said property. The Encumbrance certificate obtained in this regard does not reflect any encumbrance which is detrimental to the title of the petitioners' property.

5.Learned counsel, who appears for the private respondents 5 to 9 herein would submit, the respondents 5 to 9 have never encroached upon the petitioners property and they are living outside of the petitioners property. In view of the same, no further submissions from these petitioners, require for consideration, since the respondents, who are alleged to have encroached on the subject land had also declared that they have no interest at any point of time over the subject land.

6.Learned Additional public prosecutor, on instructions, would submit that on physical verification, it is seen that about more than 50 families are residing inside the subject property. For the purpose of verifying the title of these persons over the said property, they made a requisition to the Tahsildar, Nambiyur, which is still pending. It is also stated that the details of these encroachers are not readily available.

7.In my view, since the petitioners herein have prima-facie established that they have a title and right over the property, it would be appropriate to direct the Tahisldhar concerned to expedite the requisition made by the third respondent/police over the title and rights of the occupants in the said property by conducting an enquiry. The Tahisldhar, Nambiyur, Erode District is suo motu impleaded as the 10th respondent in the present proceedings.

8.In the light of the above observations, there shall be a direction to the tenth respondent/Tahisldhar, Nambiyur to consider the requisition made by the third respondent/Police by conducting appropriate enquiry. During the course of the enquiry, if the tenth respondent/Tahisldhar is of the view that opportunity has to be given to the encroachers, such an exercise shall also be made and their objections shall also be considered, during the course of enquiry. The Tahisldhar shall endeavour to complete the enquiry as expeditiously as possible, in any event, within a period of three months from the date of receipt of a copy of this order.

9.In case, if the Tahisldhar is of the view, that the title of the property in question vests with the petitioners, the second respondent herein, namely, the Deputy Superintendent of Police, Perundurai shall extend the necessary police protection to enable the petitioners herein to effectively enjoy the property.

10.With these above observations and direction, the Criminal Original Petition stands disposed of.

23.09.2019

Index:yes/no
Internet:yes/no
klt/sbn

To

<http://www.judis.nic.in>

- 1.The Superintendent of Police,
Erode, Erode District.
- 2.The Deputy Superintendent of Police,
Perunthurai,Erode District.
- 3.The Inspector of Police,
Varapalayam Police Station, Erode District.
- 4.The Sub-Inspector of Police,
Varapalayam Police Station, Erode District.
- 5.The Tahsildhar,
Nambiyur, Erode.
5. The Additional Public Prosecutor,
High Court of Madras.



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M.S. RAMESH,J.

klt/sbn



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