

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.32175 of 2019

S.Nandakumar

... Petitioner

Vs.

1. The State Rep. by its
Deputy Superintendant of Police,
Bhavani Camp,
Bhavani Taluk, Erode District.

2. The Sub Inspector of Police,
Appakoodal Police Station,
Erode.

3. C.Ranganaicker

4. R.Palanisamy

5. R.Nagaraj

... Respondents

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the respondents 1 and 2 provide police protection to the petitioner to facilitate the petitioner to enter upon his lands comprised in Survey Nos.903, 887, 897 measuring in extent 7.55 acres, Vebatthi Village, Bhavani Taluk, Anthiyur, Erode District situated within the limits of Appakoodal Police Station, Erode.

For Petitioner : Mr.B.Hari Krishnan

For Respondents : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor
(for R1 & R2)

O R D E R

This petition has been filed by the petitioner seeking police protection to enter upon the land comprised in Survey Nos.903, 887 and 897 admeasuring 7.55 acres, Vebatthi Village, Bhavani Taluk, Anthiyur, Erode District.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the first and second respondents.

3. The learned counsel for the petitioner has submitted that the fourth respondent herein had filed a suit in O.S.No.68 of 2010 on the file of the Additional District Judge (Fast Track Court), Bhavani, Erode District for declaration and permanent injunction and also for partition and the said suit was dismissed on 26.03.2018 and even thereafter, the

fourth respondent is not allowing the petitioner from enjoying his share in the suit property and hence, he requests to direct the respondents 1 and 2 to give police protection for enjoying the same.

4. Per Contra, the learned Additional Public Prosecutor has submitted that the Trial Court has partly decreed the suit and passed a preliminary decree to divide the suit properties and allot 9/320 shares to the fourth respondent/plaintiff and the suit was dismissed only with regard to the prayer for injunction. He further submitted that if the petitioner claims that he is in exclusive possession of the suit property, he has to approach the Civil Court and get appropriate relief and instead of that, he cannot approach this Court for seeking police protection.

5. It is seen from the typed set of papers filed by the petitioner, the fourth respondent herein had filed a Suit in O.S.No.68 of 2010 on the file of the Additional District Judge (Fast Track Court), Bhavani, Erode District for seeking partition and for permanent injunction. The Trial Court has partly decreed the suit to divide the suit properties and allot 9/320 shares to the fourth respondent/plaintiff and only in respect of other reliefs, the suit was dismissed. Since the petitioner is also a party in the aforesaid suit, if any share was allotted to him in that suit, he has to file final decree application and get his share separately and thereafter if necessary he can file suit for permanent injunction and other reliefs. Instead of that he cannot file this kind of petition before this Court.

6. For the aforesaid reasons, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ebsi/vv
To

1. The Deputy Superintendant of Police,
Bhavani Camp,
Bhavani Taluk, Erode District.

2. The Sub Inspector of Police,
Appakoodal Police Station, Erode.

3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.B.Hari Krishnan , Advocate SR.No. 100504

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