

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2019

CORAM:

THE HON'BLE MR. JUSTICE P. RAJAMANICKAM

Crl.O.P. No. 33134 of 2019

S.N. Neelakandan

...Petitioner

vs

1. The Superintendent of Police,
Vellore District.

2. The State Represented by,
Inspector of Police,
Gudiyatham Police Station
Gudiyatham - 632 602.

3. Kailashnath

...Respondents

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to direct the first and second respondents police to grant police protection to the lives of the petitioner and his family members, to the movable and immovable properties and for fencing of the immovable vacant property land situated at Mosque Street, Gopalapuram, Gudiyatham on the basis of the petitioner's complaint dated 14.11.2019.

For Petitioner : Mr. J. Prakasam

For R-1 and R-2 : Mr. M. Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Petition has been filed to direct the first and second respondents to grant police protection to the lives of the petitioner and his family members, to the movable and immovable properties and for fencing the vacant land situated at Mosque Street, Gopalapuram, Gudiyatham on the basis of the petitioner's complaint dated 14.11.2019.

2. The learned counsel for the petitioner has submitted that the third respondent is the petitioner's brother's son. He further submitted that already the petitioner herein and third respondent's father had filed a suit for partition against one S.S. Basavaraj in O.S. No. 178 of 1992 on the file of the Sub-Court, Vellore and in the said suit, a compromise decree was passed on 28.04.1992 and in pursuance of the said

compromise decree, the properties situated in S.Nos. 1113/2, 1115/5, 1115/1 measuring 1.09 acres allotted to the third respondent's father and the properties situated at Mosque Street, Gopalapuram, Gudiyatham was allotted to the petitioner herein. He further submitted that suppressing the said fact, the third respondent has filed another suit in O.S. No. 134 of 2017 for the relief of partition. Since the said suit is barred by the principle of res-judicata, the petitioner herein has filed C.R.P. No.3259 of 2018 before this Court to strike off the plaint in O.S. No. 134 of 2017 and this Court had granted an order of interim stay of further proceedings in O.S. No. 134 of 2017. He further submitted that now the third respondent is giving a life threat to the petitioner and his family members and also preventing the petitioner from enjoying his properties and hence, he requests for a direction to the respondents 1 and 2 to provide police protection.

3. Per contra, the learned Additional Public Prosecutor has submitted that since the matter is relating to Civil dispute, the petitioner has to workout his remedy before the Civil Court. He further submitted that this Court cannot interfere with the disputed facts.

4. If the petitioner is having threat with regard to his possession and enjoyment of the properties, he has to approach the Civil Court and obtained an order of interim injunction or permanent injunction as the case may be, and after obtaining such order, if the third respondent disobeys the same, he can move the same Court by filing an application under Section 151 of CPC seeking a direction to give police protection to enforce the said order, instead of that, he cannot approach this Court.

5. With the aforesaid directions, the Criminal Original Petition is disposed of.

सत्यमेव जयते

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

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Sub Assistant Registrar

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To

1. The Superintendent of Police,
Vellore District.

2. The State Represented by,
Inspector of Police,
Gudiyatham Police Station
Gudiyatham - 632 602.

3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.J.Prakasam, Advocate, S.R.No. 103576

Crl.O.P. No. 33134 of 2019

RSV(CO)
GN(30/01/2020)



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