



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2019

CORAM

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

Crl.M.P. (MD) .No.9918 of 2017 in
Crl.O.P. (MD) .No.3949 of 2016

P.R.Jeyabalan

.. Petitioner

Vs.

1.The Deputy Superintendent of Police,
Kodaikanal, Dindigul District.

2.The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.

3.Justin Prakash

.. Respondents

PRAYER: Criminal Miscellaneous Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the respondents to give adequate police protection to the petitioner and his family members to access their property situated at Survey No.67/2 & T.S.No.43 & 44 as D.No.3/114, 3/116, 3/114-B5 in Ward - C, Block No.4 & 40/1C (New T.S.No.1) in Ward - C, Block No.15 in Naidupuram, Kodaikanal Town, Dindigul District, on the basis of his complaint dated 09.12.2015, 27.08.2016 & 05.10.2016.

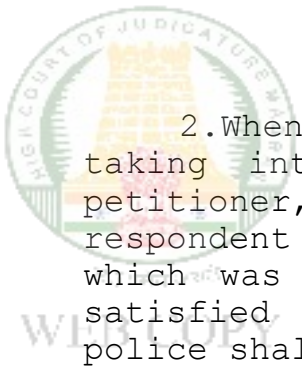
For Petitioner : Mr.N.Sathish Babu

For Respondents : Mr.R.Anandharaj for R1 & R2
Additional Public Prosecutor

Mr.K.Sami Durai for R3

ORDER

This petition has been filed seeking police protection to the petitioner and his family members to access the property situated at survey numbers Survey No.67/2 & T.S.No.43 & 44 as D.No.3/114, 3/116, 3/114-B5 in Ward - C, Block No.4 & 40/1C (New T.S.No.1) in Ward - C, Block No.15 in Naidupuram, Kodaikanal Town, Dindigul District, on the basis of his complaints, dated 09.12.2015, 27.08.2016 & 05.10.2016.



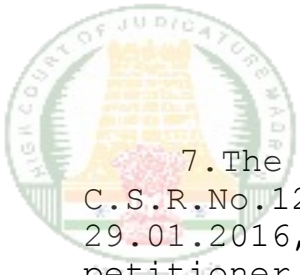
2. When the matter was taken up for hearing on 07.03.2016, taking into account of the available materials placed by the petitioner, this Court was pleased to pass an order directing the respondent to conduct an enquiry on the complaint of the petitioner which was pending in C.S.R.No.518 of 2015 and if the police is satisfied about the bonafideness of the petitioner's claim, the police shall give protection to his property.

3. Pursuant to the order, dated 07.03.2016, the respondent police has also provided police protection to the petitioner to assess his land. In the meanwhile, the petitioner had filed a suit along with an application for injunction in O.S.No.848 of 2015 and I.A.No.805 of 2015, before the Sub Court, Palani, as against the third respondent.

4. On 17.04.2019, the Inspector of Police, Kodaikanal Police Station, Dindigul District, has filed a status report, wherein, he has taken a specific stand that the third respondent / Justin Prakash has submitted an application before the Assistant Settlement Officer for granting of patta in favour of him in respect of S.No.67/2 (Old Survey No.153/3B1) having an extent of 20 cents, which was purchased by him and the Assistant Settlement Officer has also issued patta No.616 in favour of the third respondent in R.P.R.No.95/1982, dated 01.07.1982. The land was classified as 'taxable dry land' and Justin Prakash has purchased 50 more cents on 10.06.1989. On the basis of the report received from the Tahsildar, Kodaikanal, the Assistant Settlement Officer, ordered to restore the patta in favour of third respondent vide his order in g/K/V./1860/2010, dated, 30.04.2011.

5. By referring these proceedings, the Inspector of Police has come to a conclusion that it is purely civil dispute and closed the previous complaint in C.S.R.No.599 of 2016 on 06.10.2016. But even, thereafter, the petitioner had lodged further complaint which is treated in C.S.R.No.121 of 2016 and the same is pending.

6. This Court is unable to accept the stand taken by the respondent police. The role of the Assistant Settlement Officer was over during the settlement period itself. According to the petitioner, an enquiry was conducted by the Tahsildar in the year 2016 and the patta has been restored in his favour and he has also produced the proceedings of the Tahsildar, Kodaikanal, in Na.Ka.No.642/12/A2, dated 29.01.2016. The above proceedings is not reflected in the status report filed by the respondent police. Moreover, the respondent police has treated a complaint of the petitioner which is of the year 2016, still at the stage of C.S.R. According to the learned Additional Public Prosecutor, due to the pendency of this Criminal Original petition, they have not acted upon the complaint. But, this Court, vide order, dated 07.03.2016, has directed the respondent police to conduct thorough enquiry on the complaint in C.S.R.No.518/2015, and therefore, there is no prohibition for the respondent police from proceeding with the enquiry.



7.The respondent shall conduct an enquiry with regard to the C.S.R.No.121 of 2016 in the light of the proceedings, dated 29.01.2016, of the Tahsildar by providing opportunity to the petitioner and find out whether any prima facie case is made out and can proceed in accordance with law and to conclude the enquiry with in a period of one month from the date of receipt of copy of the order. Accordingly, this criminal miscellaneous petition is disposed of.

Sd/-

Assistant Registrar (T&P)

/ True Copy /

Sub Assistant Registrar (CS-)

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To

- 1.The Deputy Superintendent of Police,
Kodaikanal, Dindigul District.
- 2.The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.SATHISH BABU,Advocate (SR-64217[F] dated 30/04/2019)

**Cr1.M.P. (MD) .No.9918 of 2017 in
Cr1.O.P. (MD) .No.3949 of 2016
29.04.2019**

ES/09.07.2019/3P/5C