



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE**Cr1.O.P.[MD]No.21553 of 2018**

A.Radhammal

: Petitioner

Vs.1.The Superintendent of Police,
Kanyakumar District2.The Inspector of Police,
Eathamozhi Police Station,
Kanyakumari District.

3.Arubathimoovar

4.Mageswaran

5.Suresh

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to direct the respondents 1 and 2 herein to provide police protection for the life and limb including the property of the petitioner for her peaceful living in DoorNo.116-A, New Door No.9/58, Dharmapuram Village, Agastheeswaram Taluk, Kanyakumari District.

For Petitioner

: Mr.H.Thayumanaswamy

For R1 & R2

: Mr.A.P.G.OHM Chairma Prabhu
Government Advocate(Crl.side)

For R3 to R5

: Mr.S.C.Herold Singh

O R D E R

The petitioner has filed this petition seeking police protection for the life and limb including the peaceful possession of the property situated in Door No.116-A, New Door No. 9/58, Dharmapuram Village, Agastheeswaram Taluk, Kanyakumari District.

2. The learned counsel for the petitioner submits that there is a civil dispute between the petitioner and the respondents 3 to 5, which constrained her to file O.S.No.520 of 1987 for declaration of title and for consequential injunction. The suit property is stated to have an extent of 50 cents. After due trial, the trial court partially decreed the suit and passed a decree of injunction restraining the respondents 3 to 5 herein not to interfere with the peaceful possession of the petitioner herein. Challenging the said decree, respondents 3 to 5 moved the first Appellate Court in A.S.No.5 of 2014 and the said appeal was dismissed by the first Appellate Court on 11.03.2015.

3. The learned counsel for the petitioner submits that no second appeal is filed by the respondents 3 to 5, but they are harassing the petitioner and threatening the life as well as the peaceful enjoyment of the property.



4. Mr.S.C.Herold Singh, learned counsel entered appearance for the respondents 3 to 5.

5.The learned counsel for the respondents 3 to 5 submitted that the trial court has chosen not to declare the title of the petitioner's suit property. But the trial court have passed a decree for injunction against his clients in O.S.No.520 of 1987.

6.The learned Government Advocate (Crl.side) appearing for the respondents 1 and 2 submitted that a representation has been received from the petitioner seeking police protection.

7. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Crl.side) appearing for the respondents 1 and 2 and the learned counsel appearing for the respondents 3 to 5.

8. In the suit, the petitioner confines right to item 1 and 2 in the suit property to which the Civil Court has granted a decree. The only remedy open to the respondents 3 to 5 herein is to approach the Civil Court for such remedy, which may be available to them. Therefore, primarily they do not have right to disturb the peaceful possession of the petitioner in item No. 1 and 2 covered by the decree of the Civil Court in O.S.No.520 of 1987.

9. Hence, in the eventuality of any disturbance to petitioner's life and limb as well as the right to property over item No.1 and 2 as referred to supra need to be given protection.

10. Inasmuch as the representation is pending consideration before the second respondent for police protection and fact that the petitioner has come with the civil decree, the second respondent is directed to enquiry into the matter and take such appropriate decision on the representation of the petitioner after enquiring and affording opportunities to all the participants within a period of two weeks from the date of receipt of a copy of this order.

11. With the above direction, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar (T AND P)

// True Copy //

Sub Assistant Registrar(CS)



To,

1.The Superintendent of Police, Kanyakumari District.

2.The Inspector of Police, Eathamozhi Police Station,
Kanyakumari District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.H.THAYUMANASAMY , Advocate SR.No. 45251.

+1CC to Mr.S.C.HEROLD SINGH , Advocate SR.No.45209.

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