



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2019

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.O.P. (MD) Nos.3264 & 3376 of 2016

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Crl.O.P. (MD) No.3264/16:

S.Sisiley

... Petitioner

Vs.

1.The Superintendent of Police,
Kanyakumari District,
At Nagercoil.

2.The Inspector of Police,
Nithiraivilai Police Station,
Vilavancode Taluk,
Kanyakumari District.

3.M.Rajamani

4.Jakkulin Kala

... Respondents

Prayer: Petition filed under Section 482 of the Criminal Procedure Code to direct the respondent police to grant police protection to the petitioner and her house on the basis of her complaint dated 07.02.2016.

For Petitioner : Mr.S.Titus

For Respondents : Mr.A.Robinson,
Government Advocate (Crl. Side)
for R.1 & R.2
Mr.M.P.Senthil for R.3 & R.4

Crl.O.P. (MD) No.3376/16:

Rajamani

... Petitioner

Vs.

1.The Superintendent of Police,
Kanyakumari District,
At Nagercoil.

2.The Revenue Divisional Officer,
Assistant Collector,
Padmanabhapuram,
Kanyakumari District.



3.The Inspector of Police,
Nithiraivilai Police Station,
Vilavancode Taluk,
Kanyakumari District.

4.K.Jeyaraj @ Moni

5.Sisily Joy

... Respondents

Prayer: Petition filed under Section 482 of the Criminal Procedure Code to direct the first and third respondents to grant adequate police protection to prevent law and order problem, while enforcing the order passed by the second respondent in his proceedings in Ref.No.B2/4479/2014 dated 26.06.2015, under Section 147 of Cr.P.C., on the basis of the petitioner's representation dated 10.02.2016.

For Petitioner : Mr.M.P.Senthil

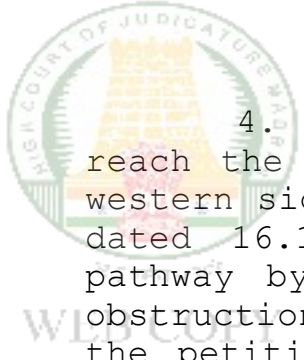
For Respondents : Mr.A.Robinson,
Government Advocate (Crl. Side)
for R.1 to R.3
Mr.Titus for R.5

COMMON ORDER

Crl.O.P.No.3376 of 2016 has been filed by the petitioner seeking police protection to implement the order passed by the Revenue Divisional Officer, Padmanabhapuram in Ref.No.B2/4479/2014 dated 26.06.2015, under Section 147 Cr.P.C. Similarly, the fifth respondent in this petition has filed Crl.O.P.No.3264 of 2016 seeking police protection to herself and her house, based on her complaint dated 07.02.2016.

2. Since the issue involved in both the petitions are interlinked to each other, both are heard together and are disposed of by way of this common order. For the sake of convenience and brevity, the parties are being referred to as per their rank in Crl.O.P.(MD)No.3376 of 2016.

3. According to the petitioner his father, one Karunakaran, inherited the property measuring an extent of 24 cents in R.S.No.134/4 in Arudesom Village from his father, (late) Kutti Nadar and purchased another portion of land measuring an extent of 24 cents in R.S.No.134/4, through a registered sale deed. Out of this 48 cents of land, the said Karunakaran sold 10 cents of land on the western portion in favour of the petitioner's elder brother [R4 herein] and his wife [R5 herein], by a registered sale deed dated 16.11.1989. Similarly, the said Karunakaran had also executed a settlement deed in favour of the petitioner on 04.07.1994 with regard to some other properties in the said survey



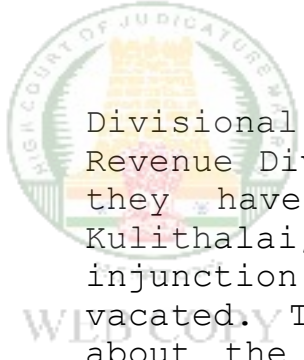
4. The case of the petitioner is that the only pathway to reach the entire extent of 48 cents in R.S.No.134/4 is from the western side of the property and taking advantage of the sale deed dated 16.11.1989, the respondents 4 & 5 have obstructed the pathway by putting up a compound wall. In order to remove the obstructions made in the public pathway by the respondents 4 & 5, the petitioner had approached the second respondent, namely, the Revenue Divisional Officer, Padmanabhapuram and he, in turn, has conducted an enquiry under Section 147 Cr.P.C., wherein, the 4th respondent herein had also appeared and submitted the written statements. Satisfying with the materials placed before him, the Revenue Divisional Officer passed an order on 26.06.2015 under Section 147 Cr.P.C., directing the fourth respondent to remove the obstructions made in the public pathway and further directed the fourth respondent to approach the appropriate civil Court to establish his right, if any. But the fourth respondent has not complied with the directions of the second respondent and therefore, a final order came to be passed by the second respondent on 10.07.2015, directing the police to provide protection.

5. Suppressing the order passed by the Revenue Divisional Officer, the fifth respondent has filed a suit before the District Munsif Court, Kulithalai, in O.S.No.198 of 2015 for a permanent injunction as against the petitioner and others, in which, an interim injunction was granted by the trial Court and the same was subsequently vacated on 25.08.2015. According to the petitioner, even thereafter, the pathway has not been restored and therefore, has filed this criminal original petition.

6. The fifth respondent has filed CrI.O.P.No.3264 of 2016 seeking police protection in respect of the same property, stating that she has purchased the same from her father-in-law by way of a registered sale deed. The fifth respondent has also referred to the proceedings of the Revenue Divisional Officer, dated 26.06.2015 and the interim order granted by the District Munsif, Kulithalai, in I.A.No.489 of 2015 dated 06.08.2015.

7. Heard the learned Counsel on either side and perused the documents placed on record.

8. It appears that there is a dispute with regard to a pathway in the subject property, for which, an enquiry was conducted by the Revenue Divisional Officer under Section 147 Cr.P.C., wherein, all the parties have appeared and contested. The Revenue Divisional Officer, by his proceedings dated 10.07.2015, has observed that a pathway was in existence and therefore, passed an order for restoring the pathway. The Revenue Divisional Officer <https://hcrs.es.gov.in/hcrs/es/> directed the police to provide necessary protection to implement the order for restoring the pathway. Though the respondents 4 & 5 are party to the proceedings before the Revenue



Divisional Officer, they have not challenged the orders of the Revenue Divisional Officer dated 26.06.2015 & 10.07.2015. Instead, they have filed a suit before the District Munsif Court, Kulithalai, in O.S.No.198 of 2015 for a permanent injunction. The injunction which was originally granted was also subsequently vacated. The suit is still pending, but there is no reference about the proceedings of the Revenue Divisional Officer in the plaint filed in O.S.No.198 of 2015. According to the learned Counsel for respondents 4 & 5, the suit in O.S.No.198 of 2015 has been subsequently amended and the Revenue Divisional Officer has also been added as one of the party to the suit.

9. Be that as it may, the fact remains that the orders of the Revenue Divisional Officer dated 26.06.2015 & 10.07.2015 are still in force and they have not been challenged before any forum in the manner known to law. Since an order of the authority is in existence, it is the duty of the respondent police to provide adequate protection to implement the same.

10. In such view of the matter, the respondent police is directed to provide necessary protection to implement the order passed by the Revenue Divisional Officer, Padmanabhapuram in Ref.No.B2/4479/2014 dated 26.06.2015 & 10.07.2015. In fine, Crl.O.P.No.3376 of 2016 stands disposed of and Crl.O.P.No.3264 of 2016 stands dismissed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Superintendent of Police,
Kanyakumari District,
At Nagercoil.
- 2.The Revenue Divisional Officer,
Assistant Collector,
Padmanabhapuram,
Kanyakumari District.
- 3.The Inspector of Police,
Nithiraivilai Police Station,
Vilavancode Taluk,
Kanyakumari District.



+2 CC to M/s.S.TITUS, Advocate (SR-53673,53674[F] dated
13/03/2019)

+1 cc to Mr.M.P.Senthil , Advocate SR.No.53206

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