



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2019

CORAM:

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Cr1.O.P. (MD) No.7165 of 2019

Palanisamy

: Petitioner

Versus

1.The Superintendent of Police,
Dindigul District.

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

3.K.R.Palanisamy : Respondents

Prayer: Petition is filed under Section 482 of the Criminal Procedure Code praying to direct the respondents 1 and 2 to give adequate police protection for using the existing cart track in Survey No.593/1 situated in Koothampoondi Village, Oddanchatram Taluk, Dindigul District, as per the decree made in O.S.No.186 of 2012, dated 30.10.2018 by the District Munsif Court, Oddanchatram and for the life and limb of the petitioner and his family members during such usage of common cart track.

For Petitioner

: Mr.T.Mohan,

For Mr.D.Venkatesh

For Respondents 1&2

: Mr.K.K.Ramakrishnan,

Additional Public Prosecutor

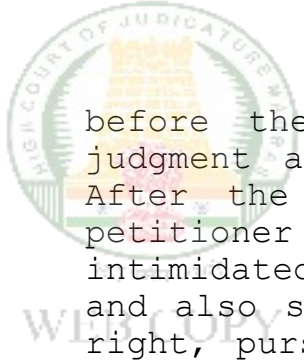
For Respondent No.3

: Mr.S.C.Herold Singh

ORDER

This petition has been filed seeking police protection as per the decree dated 30.10.2018, passed in O.S.No.186 of 2012, on the file of the District Munsif Court, Oddanchatram.

2. The grievance of the petitioner is that, there is a dispute between the petitioner and the third respondent regarding use of a common cart track in Survey No.593/1 situated in Koothampoondi Village, Oddanchatram Taluk, Dindigul District. Earlier, the petitioner filed a civil suit in O.S.No.186 of 2012 on the file of the District Munsif Court, Oddanchatram, for declaration, declaring the right to use the common cart track in the above said survey number and also for a consequential injunction, restraining the third respondent herein from interfering with his right to use the cart track. The Trial Court, by judgment and decree dated 30.10.2018, decreed the suit. Challenging the judgment and decree, the third respondent filed an appeal in A.S.No.138 of 2018



before the Sub Court, Palani. The appeal is pending, but the judgment and decree passed by the Trial Court is not suspended. After the decree, now, the third respondent is preventing the petitioner and others from using the pathway and also criminally intimidated him. Hence, he made a complaint to the second respondent and also sought to give police protection to him to safeguard his right, pursuant to the decree passed in the suit. But, so far, no action has been taken by the second respondent. Hence, the present petition has been filed seeking for the aforesaid relief.

3. Today, when the matter came up for hearing, the learned Additional Public Prosecutor appearing for the first and second respondents submitted that the petitioner's complaint has been now enquired into and that has been closed, directing the parties to approach the Civil Court concerned. That apart, earlier, the third respondent also filed a Writ Petition before this Court in W.P.(MD) No.4666 of 2019, seeking a direction to the first and second respondents herein not to interfere with the civil dispute pending the proceedings in A.S.No.138 of 2018 on the file of the Sub Court, Palani, wherein, this Court, recording the statement of the learned Government Advocate (Criminal side) appearing for the first and second respondents, that the respondent police is not interfering with the civil dispute, disposed of the Writ Petition, by order dated 28.02.2019.

4. The learned counsel appearing for the third respondent submitted that the third respondent, challenging the judgment and decree passed by the Trial Court in O.S.No.186 of 2012 on the file of the District Munsif Court, Oddanchatram, filed an appeal in A.S.No.138 of 2018, which is also pending before the Sub Court, Palani. In view of the pendency of the appeal, the decree passed by the Trial Court is not reached the finality. In the above circumstances, the petitioner cannot seek for police protection. That apart, this Court already passed an order in W.P.(MD)No.4666 of 2019, directing the respondents police not to interfere with the civil dispute. Hence, the petitioner is not entitled to any relief as sought for in the present petition.

5. I have considered the rival submissions and also perused the records carefully.

6. Admittedly, a decree has been passed by the Civil Court, declaring the right of the petitioner to use the common cart track and also permanent injunction was granted restraining the third respondent herein from interfering with the petitioner's right to use the pathway. Even though appeal is pending against that judgment and decree, so far, it was not suspended by the Appellate Court. In the above circumstances, in view of the decree passed by a competent Civil Court, he has got every right to seek for police protection.



issues involved between the parties and this Court simply recorded the submission made by the learned Government Advocate (Criminal side) appearing for the first and second respondents that the respondent police will not interfere with the civil dispute and disposed of the Writ Petition.

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8. It is an admitted fact that a decree passed by the Civil Court is in favour of the petitioner and the decree is not suspended so far. In the above circumstances, until the decree is set aside or suspended by the Appellate Court, the petitioner is entitled to seek for police protection.

9. In view of the above facts and circumstances of the case and also the fact that as the complaint filed by the petitioner has already been closed, if the petitioner's possession is disturbed, it is always open to him to approach the second respondent and file a necessary application and on filing such application, the second respondent is directed to give police protection to the petitioner.

10. The Criminal Original Petition is disposed of with the above direction.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Munsif Court,
Oddanchatram.

2. The Superintendent of Police,
Dindigul District.

3. The Inspector of Police,
Kallimanthayam Police Station,
Dindigul District.

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

+1cc to Mr. S.C. HEROLD SINGH, Advocate, SR.No. 75498

+1cc to Mr. D. VENKATESH, Advocate, SR.No. 75391

Order made in
Cr1.O.P. (MD) No.7165 of 2019
Dated: 15.07.2019

SML

<https://hcservices.ecourts.gov.in/hcservices/>

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