

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.5154 of 2020

R.Kalaiarasan

.. Petitioner

Vs

1.The Commissioner of Police,
Greater Chennai City,
Poonamalle High Road,
Vepery, Chennai.

2.The Inspector of Police,
P3, Vysarpadi Police Station,
Vyasarpadi, Chennai - 600 039.

3.Stephen Paul

.. Respondents

Prayer :- Criminal Original Petition filed under Section 482 Cr.P.C. Praying to direct the respondent 1 and 2 to give police protection to the petitioner in fencing his land situated at No.56, New Magazine Road, Vyasarpadi, Chennai - 600 039 consider the petitioner representation letter dated 01.02.2020.

For Petitioner : Mr.M.L.Ramesh

For Respondents

For R1 & R2 : Mr.M.Mohamed Riyaz
Addl. Public Prosecutor

O R D E R

This petition has been filed seeking to direct the respondents 1 and 2 to give police protection to the petitioner in fencing his land situated at No.56, New Magazine Road, Vyasarpadi, Chennai - 600 039 consider the petitioner representation letter dated 01.02.2020.

2.It is seen from records that the petitioner has already filed a suit in O.S.No.7074 of 2000 before the XI Assistant City Civil Court, Chennai, which was dismissed, against which an appeal was preferred, which was also dismissed. Therefore, he filed second appeal before this Court in SA.No.1509 of 2011, which was allowed, thereby the suit filed by him has been decreed in his favour.

3.The learned counsel for the petitioner would submit that in spite of the interim order passed, the 3rd respondent is continuously interfering the possession and enjoyment of the petitioner and they are causing threat to the petitioner and therefore, the petitioner gave a complaint to the respondent police seeking for police protection. Since the same was not considered, this petition has been filed seeking for appropriate direction.

4.Heard Mr.M.L.Ramesh, learned Counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor for the respondent police.

5.In this regard the learned counsel appearing for the petitioner relied upon the judgment reported in 2014-2-L.W.927 in the case of Radhika Sri Hari & another Vs. The Commissioner of Police, Coimbatore, which reads as follows :-

"6. The reliance placed on decision referred to by the learned counsel for contesting respondents is misplaced. While it is true that pending civil proceedings, this court would not interfere in exercise of jurisdiction under Section 482 Cr.P.C, the instant is a case, wherein the right of the petitioners to property stand crystallised under order in S.A.No.855 of 1977. Pursuant to subsequent proceedings in W.P.No.7356 of 2012, the property of the petitioners came to be demarcated under proceedings of the appellate authorities viz Town Sub Inspector of Survey, Coimbatore East. Such official act has been challenged by way of contempt proceedings and the same stand dismissed. It is not the contention of learned counsel for contesting respondents that pursuant to the order in Cont.P.No.1444 of 2012, they have not moved any civil forum. However, he would submit that contesting respondents are poor people pitted against the affluent persons in whose aid the police agency also is working.

7. In the aforesaid circumstances, this court considers it appropriate to refer to report of the committee constituted by the Government in G.O.(3D) No.42, Home dated 30.06.2008 towards review of the system of treating complaints relating to money and land matters and to suggest a legally acceptable methodology. The report of such committee touching upon several issues, was accepted by Government. Having done so, under G.O.Ms.No.1580 Home (POL.VII) Department dated 24.11.2008, the Director General of Police was required to circulate the report

along with the 14 point guidelines annexed to such Government order to police officers/stations for appropriate adherence. Under C.No.43/CRB/CSP/2008 dated 08.12.2008, the Commissioner of Police, Chennai Sub-Urban, has caused communications to all Deputy Commissioners, Assistant Commissioners and Inspector of police for necessary action. Guideline 11 issued by the committee reads as follows:

"11. When police protection is sought for the implementation of a civil court order it should be given readily. Police should not insist on a specific court direction to give police protection."

8. What is informed above makes clear that the petitioner would be entitled to police protection as prayed for. Criminal original petition is allowed. There will be a direction to respondents to provide police protection to the petitioners for a period of three weeks from the date of receipt of a copy of this order towards enabling them raising fresh barbed wire fences on their property. The same will be at the cost of the petitioner."

This Court held that when there is a civil Court decree, the police should give protection to implement the same. The police should not insist on a specific Court direction to give protection.

6. In view of the above, this Court is inclined to allow this petition and subsequently the second respondent is directed to provide adequate police protection to the petitioner for ***fencing the property** situated at No.56, New Magazine Road, Vyasarpadi, Chennai - 600 039, forthwith.

Sd/-

Assistant Registrar(CS-VI)

Dated:05/06/2020

*Corrected as per the order of this Court dated 01/09/2020 in CrI.O.P.No.5154 of 2020

Sd/-

Assistant Registrar(CS-III)

Dated:14/09/2020

//True copy//

Sub Assistant Registrar

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To

1.The Commissioner of Police,
Greater Chennai City,
Poonamalle High Road,
Vepery, Chennai.

To be substituted to the order
already despatched on
06/08/2020

2.The Inspector of Police,
P3, Vysarpadi Police Station,
Vyasarpadi, Chennai - 600 039.

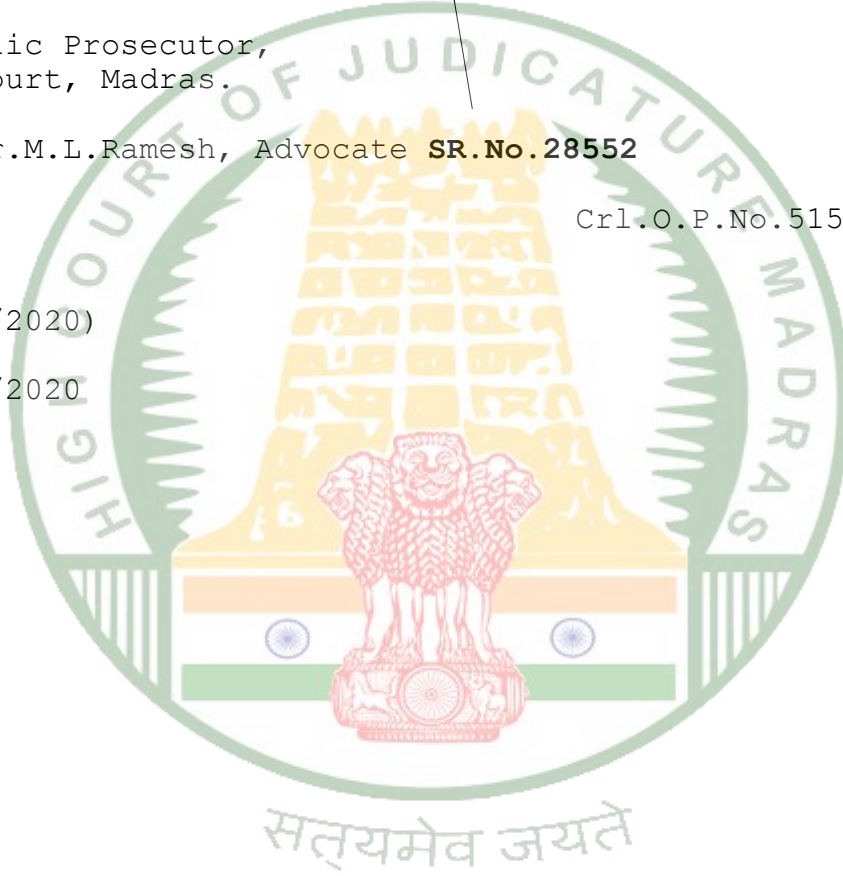
3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.M.L.Ramesh, Advocate **SR.No.28552**

Crl.O.P.No.5154 of 2020

RLD(CO)
GMY(09/07/2020)

srg 15/09/2020



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