

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.5545 of 2020

K.Dasarathan

.. Petitioner

/versus/

1.State Rep.by
The Inspector of Police,
V-7, Police Station,
Nolambur,
Chennai 600 037.

2.K.Rajendran

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the 1st respondent police to afford police protection to the petitioner as and when steps are taken to evict the 2nd respondent from the premises situated at Plot No.46 at M.G.R.Street, Gangalamman Nagar, Mogappair, Chennai, pursuant to the order dated 08.01.2019 passed by the Tamil Nadu Slum Clearance Board.

For Petitioner : Mr.E.J.Ayyappan
For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor
for R1

O R D E R

This petition has been filed for a direction to direct the 1st respondent police to afford police protection to the petitioner as and when steps are taken to evict the 2nd respondent from the premises situated at Plot No.46 at M.G.R.Street, Gangalamman Nagar, Mogappair, Chennai, pursuant to the order dated 08.01.2019 passed by the Tamil Nadu Slum Clearance Board.

2. It is the case of the petitioner that the Tamil Nadu Slum Clearance Board Chennai allotted a Plot No.46 at M.G.R.Street, Gangaiamman Nagar, Mogappair, Chennai to him as per the allotment order dated 30.07.1996 and they have allotted adjacent plot No.45 to his brother, who is the 2nd respondent

herein. After taking possession of his plot, he constructed a thatched house over the same and with the help of the 3rd respondent, they were manufacturing Appalams within the petitioner's property. Without his knowledge, the 3rd respondent requested the Tamil Nadu Slum Clearance Board for interchange of plots on the ground that he was in possession of the plot No.46. After issuing notice, the Slum Clearance Board by an order dated 01.09.2003, permitted interchange of the housing plots. Therefore, he filed a petition in W.P.No.29350 of 2003 challenging the order passed by the Slum Clearance Board and the learned Single Judge refused to interfere with the matter on the ground that a civil suit for bare injunction filed before the District Munsif Court, Ambattur and dismissed the writ petition by an order dated 12.03.2013. Thereafter, challenging the dismissal order the petitioner filed a Writ Appeal before this Court in W.A.No.1556 of 2016 and by an order dated 09.10.2017, the Division Bench has dismissed the appeal.

Thereafter, he sent a representation along with order dated 09.10.2017 to the Slum Clearance Board on 26.12.2017 to restore the allotment of Plot No.46 to his favour and the Board restored the allotment to the petitioner by an order dated 08.01.2019. After that, he filed a complaint on 20.11.2019 before the respondent police for police protection. On enquiry, the third respondent has written an undertaking that he will vacate and hand over the property within three months. But, till date, he has not complied with the said undertaking. Hence, this petition.

3. The learned Additional Public Prosecutor would submit that there is a civil dispute between the petitioner and the third respondent and the police cannot give police protection in a case of this nature.

4. Heard Mr.E.J.Ayyappan, learned Counsel for the petitioner, Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor for the first respondent.

5. Having regard to the nature of the case, the petitioners has to file an appropriate petition before the court below, where the suit is pending and initiate contempt proceedings. It is also possible for the petitioner to seek for police protection before the Court below, by filing an appropriate petition under Section 151 of Cr.P.C. The petitioner cannot maintain an independent petition before this Court seeking for police protection. The police cannot interfere in this case, unless, a specific direction is given by a competent Civil Court.

6. In view of the above, this Criminal Original Petition is disposed of, by giving liberty to the petitioners to workout his remedy before the Court below in the manner indicated herein above.

Sd/-
Assistant Registrar(AD I)MDU

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
V-7, Police Station,
Nolambur,
Chennai 600 037.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.E.J.Ayyappan, Advocate, S.R.No.20899

CRL.O.P.No.5545 of 2020

EV(CO)
KKV/16/06/2020



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