

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.8717 of 2020

E.Shanmugam
S/o Edumpan
Alamarathupatti - Pedarahalli
Pennagaram Taluk
Dharmapuri District.

...Petitioner

Vs.

1.The Superintendent of Police
Office of the Superintendent of Police
Dharmapuri, Dharmapuri District.
2.The Inspector of Police
Papparapatti Police Station
Papparapatti, Dharmapuri District.

3.Gandhi
S/o Bheemagounder
Poochettikallai
Pedarahallai (Post)
Pennagaram taluk
Dharmapuri District.

...Respondents

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code, to issue a direction directing the 2nd respondent to provide adequate police protection to the petitioner in

order to fence the property in Survey No.426/3 situated at Thithiyoppanaalli Village, Pennagaram Taluk, Dharmapuri District, based on the representation dated 02.06.2020.

For Petitioner : No Appearance
For Respondents : Mr.S.Karthikeyan
Additional Public Prosecutor for R1 to 2

ORDER

The Criminal Original Petition has been filed to issue a direction directing the 2nd respondent to provide adequate police protection to the petitioner in order to fence the property in Survey No.426/3 situated at Thithiyoppanaalli Village, Pennagaram Taluk, Dharmapuri District, based on the representation dated 02.06.2020.

2.The nature of the grievance that has been expressed in this petition is purely civil in nature.

3. It is seen from records that the petitioner has already filed a suit for specific performance against the 3rd respondent in O.S.No.45 of 2006 before the Sub-Court, Dharmapuri and the same was decreed in favour of the petitioner on 18.09.2006. Further the suit was exparte decree.

Further it is averred that in spite of the decree in O.S.No.45 of 2006, the 3rd respondent is continuously interfering the possession and enjoyment of the petitioner's property and causing threat to the petitioner and therefore, the he gave a complaint to the second respondent police seeking for police protection to fence his property in Survey No.426/3 situated at Thithiyoppaali Village, Pennagaram (Taluk), Dharmapuri (Dist). Since the same was not considered, this petition has been filed seeking for appropriate direction.

4. The learned Additional Public Prosecutor would submit that the respondent police cannot give police protection in a case of this nature.

5.It is seen that the 3rd respondent continuously interfering the possession and enjoyment of the petitioner's property. The petitioner has to file an appropriate petition before the Court below 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 petitioner to workout his remedy before the Court below in the manner indicated herein above.

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23.07.2020

Index: Yes/No

Internet: Yes/No

To

1.The Superintendent of Police
Office of the Superintendent of Police
Dharmapuri, Dharmapuri District.

2.The Inspector of Police
Papparapatti Police Station
Papparapatti, Dharmapuri District.

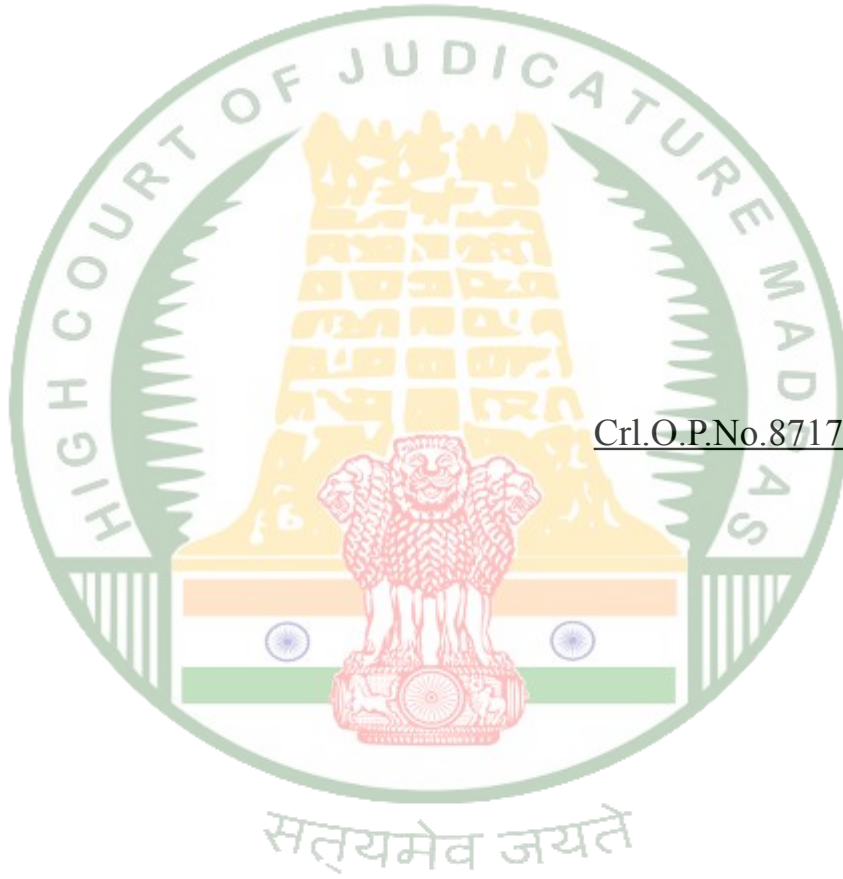
3.The Public Prosecutor, High Court of Madras.

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G.K.ILANTHIRAIYAN, J.

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