

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.07.2020
PRONOUNCED ON : 29.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.25919 of 2017

C.Vasantha

...petitioner

Vs.

1. The State rep.by
the Inspector of Police,
Meensurutty Police Station,
Meensurutty,
Ariyalur District.
2. The Thasildar
Taluk office,
Jayankondam
Ariyalur District.
3. The Head Surveyor
Taluk Office,
Jayankondam,
Ariyalur District.
4. Pichaimuthu
5. Ramadoss
6. Selvam

...Respondents

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the respondent police to give police protection to complete the survey of the land belongs to the petitioner comprised of S.F.No.8/5J, 7/2A and 8/5H situated at Kuruvalappar koil Village, Udayarpalayam Taluk, Ariyalur District.

For Petitioner	:	M/s.G.Pugazhenth for Mr.M.Saravanan
For Respondents	:	Mr.C.Iyyappa Raj Additional Public Prosecutor for R1 to R3
For R4 to R6	:	M/s.T.S.Kanmani

O R D E R

This petition has been filed to direct the respondent police to give police protection to complete the survey of the land belongs to the petitioner comprised in S.F.No.8/5J, 7/2A and 8/5H, situated at Kuruvalappur koil Village, Udayarpalayam Taluk, Ariyalur District.

2. The case of the prosecution is that the petitioner is residing in the above said village, has two sons. One of the son is working in C.R.P.F and another son is working Abroad. The petitioner's husband/Chinadurai died 20 years ago. The fourth respondent is the brother of late Chinadurai. There was a partition deed between the petitioner's husband and the 4th respondent and the partition deed was executed on 07.07.2013, which was registered vide document No.1257/1983. As per the partition, Survey No.8/5J, 7/2A, and 8/5H belongs to petitioner's husband. Since her husband is no more and her sons are not residing in native village, the respondents 4 to 6 are disturbing the petitioner from enjoyment of the property.

3. There was a dispute in this regard between the petitioner and the respondents 4 to 6. When the petitioner's son came on leave, he had approached the 2nd and 3rd respondent to survey the above mentioned lands, to resolve the dispute. Since the respondents 4 to 6 were creating obstacles and not allowing surveyor to survey the land, representations were sent by the petitioner's son to the Thasildar, Jayakondam and to the Inspector of Police, Ariyalur/first respondent to provide necessary protection for surveying the land. Taking advantage of the petitioner's husband death and as there is no male member to support the petitioner, the respondents 4 to 6 are stalling the survey works. Further, the petitioner sent another representation dated 16.10.2017 to the respondents 1 to 3 to give police protection for surveying the land.

4. The contention of the petitioner is that despite the partition done and registered in Sub-Registrar Office, Jayakondam on 07.07.1983, the respondents 4 to 6 are encroaching upon the petitioner's property and not allowing the petitioner to enjoy the property. The petitioner had approached the second and third respondents for surveying the land and paid necessary survey fees on 22.02.2017. Thereafter till date, survey works could not be conducted. In support of her contention, the petitioner has filed registered partition deed, copy of the patta, payment of survey fees and the representations sent to the Authorities. The fourth respondent, who is a political person, wielding men and money power, is obstructing the survey. The fifth and sixth respondent are aiding and acting in Tandem in the obstruction.

5. The learned Additional Public Prosecutor submitted that the respondents 2 and 3 have not given any complaint about obstructions caused by the respondents 4 to 6. If the obstruction is true, they would have lodged a complaint and necessary action would be taken against respondents 4 to 6 for obstructing the public servants from discharging their duties. In this case, there is no complaint from the public servant namely R2 and R3. The first respondent had instructed the petitioner and the respondents 4 to 6 to approach the Civil Court and seek appropriate orders.

6. The learned counsel for the respondents 4 to 6 submitted that the petitioner is attempting to encroach the property of the respondents 4 to 6. As per the partition, the respondents 4 to 6 have been allotted front portion of the land and the land of the petitioner is situated on the back side. The petitioner is attempting to use police force, for illegally occupying the land and claiming the right over the property of the respondents 4 to 6. It is further submitted that they have no objection for surveying the land by the public authorities namely R2 and R3.

7. Considering the rival submissions and on perusal of the materials, it is seen that there has been partition between the petitioner and the fourth respondent which is registered in document No.1257/1983. Thereafter, patta has been issued in favor of the petitioner's son. The petitioner had paid necessary charges for surveying land as early as on 22.02.2017. Taking into consideration the fact that the petitioner is a widow and a senior citizen, deprived of her right in enjoying the property, the respondents 2 and 3 ought to have carried on the survey works as per law. In view of the same, this Court is inclined to issue following directions:

(i) The Deputy Superintendent of Police, Jayamkondan, Ariyalur District is directed to monitor, if necessary, personally be present, during Survey.

(ii) The second and third respondents, after giving proper information to the adjacent land owners, are directed to conduct survey and earmark the land as per revenue records.

(iii) The petitioner had already paid survey charges. If there is any further requirement of charges to be made, the same to be collected from the petitioner. The petitioner being a lady, if she is unable to present personally, can depute a representative during survey.

(iv) It is made clear that if there is any violation or obstruction caused by R4 to R6 or new men, the first respondent/Inspector of Police is directed to take appropriate

action against obstructors and also provide police protection to the public authorities namely R2 and R3 to conduct survey works. These survey works are to be conducted within a period of 15 days from the date of receipt of a copy of this Order.

8. With the above directions, the Criminal Original Petition stands disposed of.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssb

To

- 1.The State rep.by
The Inspector of Police,
Meensurutty Police Station,
Meensurutty,
Ariyalur District.
- 2.The Thasildar
Taluk office,
Jayankondam
Ariyalur District.
- 3.The Head Surveyor
Taluk Office,
Jayankondam,
Ariyalur District.
- 4.The Superintendent of Police, Ariyalur.
- 5.The Deputy Superintendent of Police,
Ariyalur.

+1cc to Mr.T.Sellakannu, Advocate, S.R.No.25582

CRL.O.P.No.25919 of 2017

NAS (CO)
KKV/25/08/2020