



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.09.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**

Crl.O.P.[MD]No.9672 of 2020

WEB COPY

Jaheer Hussain

... Petitioner

Vs.

1.The Superintendent of Police,
Dindigul District, Dindigul.

2.The Deputy Superintendent of Police,
Kodaikanal, Dindigul District.

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

4.Reg a Bhavani @ Fathima Rameela

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the respondents 2 and 3 to give necessary police protection to evict the fourth respondent in Survey Nos.438/1B2 and 438/1B4 of an extent of 9.5 cents situated at Pallangi-Mattupatti, Vilpatti Village, Kodaikanal, based on the report filed by the Tahsildar of Kodaikanal in Na.Ka.No.1327/2019/S, dated 14.05.2019, on the basis of the petitioner's representation dated 28.11.2019.

For Petitioner	: Mr.K.R.Badurus Zaman
For R-1 to R-3	: Mr.S.Chandrasekar
	Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking a direction to direct the respondents 2 and 3 to give necessary police protection to evict the fourth respondent in Survey Nos.438/1B2 and 438/1B4, to an extent of 9.5 cents, situated at Pallangi-Mattupatti, Vilpatti Village, Kodaikanal, based on the report given by the Tahsildar, Kodaikanal, in Na.Ka.No.1327/2019/S, dated 14.05.2019, on the basis of the petitioner's representation dated 28.11.2019.

2. The learned counsel appearing for the petitioner would submit that in respect of the land dispute having by the petitioner with the fourth respondent herein, the Tahsildar, Kodaikanal, after visiting the said property, issued a proceedings in Na.Ka.No.1327/2019/S, dated 14.05.2019, in which, he categorically mentioned as there was an encroachment in Survey Nos. 438/1B2 and 438/1B4 to an extent of 9.5 cents situated at Pallangi-Mattupatti,



Vilpatti Village, Kodaikanal, for removing the said encroachment, it is necessary to direct the second and third respondents to provide adequate police protection to the petitioner.

3. In response to the submission made by the learned counsel appearing for the petitioner, the learned Additional Public Prosecutor appearing for the respondents 1 to 3, on instructions, would submit that during the time of enquiry, in respect of the alleged encroachment both the petitioner and the fourth respondent are claiming title over the property and thereby, the third respondent Police is not in a position to find out the real owner of the encroached area. Accordingly, he prays to dismiss this petition.

4. Upon considering the arguments advanced by the learned counsel on either side, it is not in dispute that as per the proceedings in Na.Ka.No.1327/2019/S, dated 14.05.2019, issued by the Tahsildar, Kodaikanal, there was some encroachment in Survey Nos. 438/1B2 and 438/1B4, to an extent of 9.5 cents, situated at Pallangi-Mattupatti, Vilpatti Village, Kodaikanal. Since both the petitioner and the fourth respondent are claiming title over the said property, the title of the said property has to be decided only by the competent Civil Court. In otherwise, we are not in a position to accept the report given by the Tahsildar in entirety. Therefore, the petitioner is directed to approach the concerned Civil Court and thereafter, if any suit is filed by the petitioner and if the same is ended in his favour, he is at liberty to file a fresh application before this Court.

5. The Criminal Original Petition stands disposed of with the above observations.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

- 1.The Superintendent of Police,
Dindigul District, Dindigul.
- 2.The Deputy Superintendent of Police,
Kodaikanal, Dindigul District.
- 3.The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.[MD]No.9672 of 2020
11.09.2020

SE (CO)
KB(29.09.2020) 3P 5C