



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2020

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.(MD).No.9754 of 2016

N.Rajakani

...Petitioner

Vs.

1.The Superintendent of Police,
Nagercoil, Kanyakumari District.

2.C.Selva Daniel @ Daniel

3.S.Fathima

4.S.Kalaiselvi

5.C.Kanthasami

6.M.Abdul Lathif

...Respondents

(Respondent Nos.2 to 6 impleaded as per order of this Court made in Crl.M.P.(MD).No.5205 & 5390 of 2016 in Crl.O.P.(MD).No.9745 of 2016 dated 05.07.2016)

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to direct the first respondent to give police protection to the petitioner and her sisters' life and limb and for their enjoyment over the property in R.S.No.547/3 situated in Kanyakumari Village of Agasteeswaram Taluk in Kanyakumari District, measuring about 65 cents (0.26.5 Ares), on the basis of the petitioner's representation dated 03.06.2016.

For Petitioner : Mr.G.Prabhu Rajadurai

For R-1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl. side)

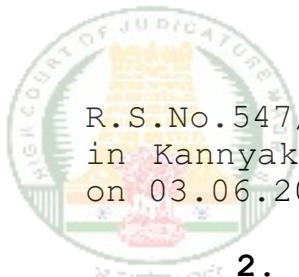
For R-2 to R-5 : Mr.T.Arul

For R-6 : Mr.R.Murugan

O R D E R

The petitioner herein has filed this petition under Section 482 Cr.P.C., seeking police protection to the petitioner and her sisters' life and limb for their enjoyment over the property in

<https://hcservices.courts.gov.in/hcservices/>



R.S.No.547/3, situated in Kanyakumari Village of Agasteeswaram Taluk in Kanyakumari District, based on the representation given by him on 03.06.2016.

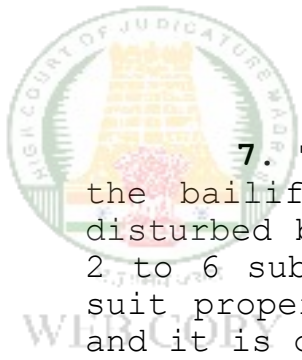
2. The learned counsel appearing for the petitioner would submit that in the year 2012, O.S.No.471 of 2012, was filed against one Muthusami and two others by Rajakani and others, in which decree was passed on 10.02.2015 and subsequently, possession taken based on the Execution Petition filed for the delivery of possession. Alleging that the peaceful possession and enjoyment of the property is under threat by the respondents 2 to 6 seeks police protection. At this juncture, it is to be noted that respondent Nos.2 to 6 were impleaded, subsequently, in this Criminal Original Petition.

3. The learned Government Advocate (Criminal side) appearing for the State would submit that it is purely a civil dispute. The title and possession has to be agitated before the appropriate civil forum, whereas, the petitioner herein instead of approaching the Civil Court, has filed this present petition for seeking the police protection.

4. The learned counsel appearing for the respondent Nos.2 to 6 would submit that the petitioner herein has no title or possession over the property and they have already lost the suit. Suppressing the said facts, the present petition under Section 482 Cr.P.C., is filed, as if they are in possession and enjoyment over the property and that possession is disturbed by the respondent.

5. The specific case of the respondents 2 to 6 is that the petitioner herein has already sold away the property and they have no title over the said property. While so, without disclosing the true facts, the petitioner has filed this Criminal Original Petition without even impleading the parties concerned. Only after subsequent interventions of the respondents 2 to 6 they were impleaded as respondents. The very conduct of the petitioner by filing this petition seeking police protection with false averment and without impleading the parties concerned, is sufficient to indicate they want to abuse the process of the Court.

6. Considering the rival submissions. The documents filed by the petitioner along with this petition, indicates that in O.S.No.471 of 2012, filed by Rajakani, the petitioner herein and three others, a decree has been passed and pursuant to that, E.P.No.27 of 2015, filed by the decree-holders for delivery of petition scheduled property, alleging that the respondents 2 to 6 have failed to hand over the vacation possession despite the decree. The delivery was effected on 25.04.2016. Thereafter, Execution Petition was terminated. In the said circumstances, the present petition is filed seeking the Police protection after giving a representation to the Superintendent of Police on 03.06.2016.



7. The petitioner contends that based on the delivery note of the bailiff that the possession has been taken and the same is disturbed by the respondents 2 to 6. Contrary to this, respondents 2 to 6 submitted that they have a valid decree and title over the suit property and possession is not with the petitioner as alleged and it is only a paper delivery.

8. In the said circumstances, it is appropriate for the parties concerned to agitate their rights before the concerned Civil Court which has already seized of the matter any order for police protection, based on the representation by the petitioner herein will precipitate the issue. Hence, this Court directs the parties to work out the remedy before the competent Civil Court. No doubt, the respondent Police will take the responsibility to maintain law and order and to give protection to the property and the persons, if incase there is any threat by either of the parties.

9. In view of the above, the Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

To

1.The Superintendent of Police,
Nagercoil, Kanyakumari District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-9776[F] dated 03/03/2020)

+1 CC to M/s.R.MURUGAN, Advocate (SR-9861[F] dated 03/03/2020)

+1 CC to M/s.T.ARUL, Advocate (SR-9834[F] dated 03/03/2020)

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