

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl. OP No. 3471 of 2018

and Crl MP No.1899 of 2018

C.Ponnuvel

... Petitioner

vs.

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

2. The Inspector of Police,
Adhiyaman Kottai Police Station,
Dharmapuri District.

* 3. S.Mani

* 4. Krishnan

.... Respondents

* R3 & R4 are impleaded as per the order of
this Hon'ble Court dated 14.02.2018 made in
Crl. MP No.1899/2018 in Crl. OP No.3471/2018.

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to issue a direction to the respondents to provide necessary police protection to the petitioner to put up barbed wire fence in the petitioner's land situated at Survey No.68/1B, Adhiyaman Kottai Village, Dharmapuri District in accordance with law.

For Petitioner : Mr.C.E.Pratap

For Respondents: Mr.C.Raghavan
Government Advocate (crl. Side)
for RR 1 & 2

Mr.Rathinavel, for RR 3 & 4

O R D E R

This petition has been filed seeking for Police Protection in order to enable the petitioner to put up a barbed wire fence in the property situated at Survey No.68/1B.

2. The case of the petitioner is that he is the absolute owner of the property situated at Survey No.68/1B, by virtue of a Registered Sale Deed dated 12.12.1976. There was some disturbance from the adjacent land owners and hence a suit came to be filed in OS.No.153 of 2013, before the District Munsif Court, Dharmapuri, seeking for the relief of permanent injunction. In the said suit, IA No.512 of 2013 was filed by the petitioner seeking for interim injunction restraining the respondents/defendants not to interfere with the possession and enjoyment of the suit property. One of the suit properties is Survey No.68/1B.

3. The application was taken up for hearing and based on the stand taken by the respondents/defendants, interim injunction was granted in favour of the petitioner with regard to Survey Nos.495/5, 494/3 and 68/1B. This suit is still pending.

4. The petitioner by virtue of the above orders passed in the Interlocutory Application, made attempts to fence the land situated at Survey No.68/1B and since there was resistance, a complaint was given to the respondent Police on 03.09.2016 seeking for Police protection. Even thereafter several complaints were given and since no action was taken, the present petition has been filed before this Court seeking for appropriate directions.

5. Heard Mr.C.E.Pratap, learned counsel appearing for the petitioner, Mr.C.Raghavan, learned Government Advocate appearing for the respondents 1 and 2 and Mr.Rathinavel, learned counsel appearing for the respondents 3 and 4.

6. It is brought to the notice of this Court that the third and fourth respondents have filed a suit in OS No.23 of 2014 before the District Court, Dharmapuri, seeking for the relief of declaration to use of pathway described in the Schedule to the plaint. This right is sought for over the land situated in Survey No.68/1B. Apart from the declaratory relief, the respondents have also sought for the relief of permanent injunction and this suit is also pending.

7. It is true that the District Munsif Court, Dharmapuri, had made the interim injunction absolute in favour of the petitioner through the order passed on 10.08.2013. By virtue of this order, the petitioner is seeking for Police protection to fence his property situated at Survey No.68/1B. The third respondent herein is the first defendant in the suit. It is also seen that the third respondent does not dispute the fact

that the petitioner is the owner of Survey No.68/1B. The only contention raised by the third respondent is that he has a right of pathway over this Survey Number and he has already approached the District Court seeking for a declaration with regard to the same.

8. In view of the above, it will not be appropriate for the Police to enter into the scene till some finality is reached in the suits that are pending on the file of the District Munsif Court, Dharmapuri. Fencing the property in Survey No.68/1B during the pendency of the suit filed by the third respondent will cause prejudice to the third respondent in prosecuting the suit. Therefore, a clear picture will emerge only after the Competent Civil Court gives a finding with regard to the respective rights of the parties. The order passed in the present petition will not come in the way of the parties approaching the Civil Court seeking for Police Protection and it is left open to the Civil Court to consider the entire facts and thereafter come to a conclusion based on merits and strictly in accordance with law.

9. In the result, this Court is not inclined to grant the relief as sought for in this petition. This Criminal Original Petition is disposed of accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

jv
To

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

2. The Inspector of Police,
Adhiyaman Kottai Police Station,
Dharmapuri District.

+1 C.C.to M/s. C.E.Pratap, Advocate, SR.No.5813

CP(CO)
SM/03/02/2021

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and Cr1 MP No.1899 of 2018