

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.0.P.No.12305 of 2021

Nandha Thirumal

... Petitioner

Vs.

1.The State Rep. By,
Inspector of Police,
Auroville Police Station,
Villupuram District.

2.Kalyana Sundaram

3.Kaliyaperumal

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the 1st respondent Police to provide necessary Police protection to the life and property of the petitioner in respect of the property measuring to an extent of 1 Acre and 49 cents of Punja Lands comprised in R.S.No.231/2A and New R.S.No.267/1, situated at Thiruchitrambalam Village, Vanur Taluk, Villupuram District on the basis of the complaint of the petitioner dated 03.05.2021 pending on the file of the 1st respondent Police in C.S.R.No.206 of 2021.

For Petitioner	:	Mr.S.Sathish Rajan
For R1	:	Mr.A.Damodaran, Govt Counsel
For R2	:	No Appearance
For R3	:	Mr.V.Balamurugane

ORDER

This Criminal Original Petition has been filed to direct the 1st respondent Police to provide Police protection to the life and property of the petitioner measuring to an extent of 1.48 acres of punja lands comprised in R.S.No.231/2A and New

R.S.No.267/1, situated at Thiruchitrambalam Village, Vanur Taluk, Villupuram District on the basis of the complaint, dated 03.05.2021 given to the 1st respondent Police in C.S.R.No.206 of 2021.

2.The learned counsel for the petitioner submitted that the property in dispute was inherited by the petitioner from his forefathers and thereafter, he is possession and enjoyment of the same. The learned counsel further submitted that the 2nd respondent is an Elected Representative of the Puducherry Assembly and the 3rd respondent is his benami. Using this influence, the 3rd respondent is not allowing the petitioner to enjoy his property and constructed a wall across the pathway and obstructed the movement of the petitioner. When the petitioner questioned the same, he was abused, threatened by the muscle men. Hence, the petitioner lodged a complaint before the 1st respondent Police and the same taken on file in C.S.R.No.206 of 2021, but no action taken thereafter.

3.The learned counsel for the petitioner further submitted that earlier, the 3rd respondent filed the suit in O.S.No.29 of 2009 before the learned District Munsif, Vanur and the same was decreed in his favour, as against the same, the petitioner preferred an appeal in A.S.No.70 of 2013 before the learned Principal Sub Judge, Tindivanam. The learned Principal Sub Judge, Tindivanam, by judgment, dated 16.02.2017 had allowed the appeal finding that the petitioner proved his possession and enjoyment of the property through supporting documents. Hence, the petitioner's right over the property has been declared by the Lower Appellate Court, against which the 3rd respondent filed Second Appeal in S.A.No.553 of 2017, which is pending before this Court, but no stay or any interim order passed. Earlier, the petitioner lodged a complaint on 11.01.2018 to the 1st respondent Police in C.S.R.No.10 of 2018. but no action was taken. Hence, he petitioner filed a petition under Section 482 Cr.P.C., in Cr1.O.P.No.9893 of 2018, wherein this Court by order, dated 10.02.2021 closed the petition for the reason that the complaint was of the year 2018 and the cause of action may not survive by efflux of time and granted liberty to the petitioner to lodge a fresh complaint. Hence, the present petition.

4.The learned counsel appearing on behalf of the 3rd respondent submitted that the petitioner is trying to get an

order from this Court, to circumvent the civil Court finding and somehow take the property by force. Earlier, the petitioner approached the 3rd respondent with muscle men to encroach upon the property in dispute and also threatened his relatives. He further submitted that the property in dispute was attached by the civil Court in O.S.No.303 of 1931 and auction petition in E.P.No.63 of 1935. This property was purchased by the 3rd respondent and Venugopal Chettiyar on 02.11.2007. After purchasing the property, the 3rd respondent became owner and has been enjoying the property. Now, the petitioner by creating some forged documents, claims right over the property. The Lower Appellate Court failed to look into these aspects and dismissed the suit in A.S.No.70 of 2013, against which the petitioner preferred Second Appeal in S.A.No.553 of 2017, which is pending before this Court. Thus, the petitioner has no right over the disputed property and he unnecessarily making false allegations as though the 3rd respondent using the influence of the 2nd respondent, attempting to encroach the property. Further, the learned counsel for the 3rd respondent referred the complaint of the petitioner, dated 03.05.2021 and submitted that the petitioner's complaint is a dramatic version as though the 3rd respondent put up a wall and had obstructed public pathway. Now, the 3rd respondent is ready for appointment of an independent person to visit the property and to find the factual position. Hence, he prayed for dismissal of this petition.

5.The learned Additional Public Prosecutor appearing for the 1st respondent submitted that on the complaint of the petitioner, dated 03.05.2021, C.S.R.No.206 of 2021 was assigned. On enquiry, it was found that there is a long drawn battle between the petitioner and the 3rd respondent. The 3rd respondent succeeded in the suit in O.S.No.29 of 2009 before the trial Court and thereafter, the Lower Appellate Court had set aside the judgment of the trial Court and held in favour of the petitioner in A.S.No.70 of 2013, as against which now, the 3rd respondent filed Second Appeal in S.A.No.553 of 2017, which is pending before this Court. In view of the contrary verdict of the Courts below, it would be appropriate that the parties to await the verdict of this Court in S.A.No.553 of 2017 and thereafter, seek for Police protection, otherwise it would be termed that the Police are interfering in the civil dispute.

6.This Court considered the rival submissions and perused

the materials available on record.

7.It is seen that a civil dispute is pending between the petitioner and the 3rd respondent and there is contrary decisions of the Courts below. While being so, it would be appropriate that the parties to await the verdict of the Second Appeal in S.A.No.553 of 2017. In case of exigency, they can approach the civil Court, obtain orders and thereafter, the 1st respondent Police can act accordingly.

8.With the above observation, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Auroville Police Station,
Villupuram District.

2.The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.12305 of 2021

PM(CO)
BVC(22/10/2021)