



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.08.2021

Pronounced on : 20.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

CRL OP (MD) No.8707 of 2021

WEB COPY

M.Kasthuriammal

... Petitioner

-Vs-

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

2.The Inspector of Police,
Thirupuvanam Police Station,
Thirupuvanam,
Sivagangai District.

3. M.Saminathan

4. C.Kalimuthu

... Respondents

PRAYER: Criminal Original Petition is filed under section 482 of Criminal Procedure Code, to direct the Respondent No.1 and Respondent No.2 to provide necessary Police protection to the petitioner and also the properties which are all described as suit properties in the decree and judgment in O.S.No.147 of 2019, dated 29.01.2021 passed by the learned District Munsif of Thirupuvanam on the basis of the Representation given by the petitioner on 19.06.2021.

For Petitioner : Mr.V.Om Prakash

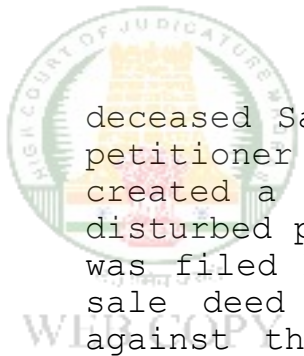
For R1 & R2 : Mr.R.M.Anbunithi,
Additional Public Prosecutor

For R3 & R4 : Mr.S.Ramasamy

O R D E R

This petition is filed seeking police protection on the basis of the representation dated 19.06.2021.

2.The case of the petitioner is that the husband of the petitioner namely, Muthukrishna Pillai executed a registered Will in his favour on 29.09.1992 and through that, a number of properties were conferred. Even though the property absolutely belongs to the petitioner, they entered into unregistered partition deed with the sons and daughters on 18.08.2020. Through the partition deed one among the sons namely Saravanan acquired 'E' schedule property on 07.05.2016. The said Saravanan died on 07.05.2016 and he was not married. So the petitioner become the sole legal heir of the



deceased Saravanan. The third respondent is one of the sons of the petitioner but he joined hands with the fourth respondent herein and created a fraudulent sale deed on 12.04.2017 based upon which they disturbed possession of the petitioner. A suit in O.S.No.147 of 2019 was filed by the petitioner seeking declaration declaring the said sale deed as null and void of and for consequential injunction against the third respondent and fourth respondent. There was a decree in favour of the petitioner on 29.01.2001. During the pendency of the abovesaid suit, the respondents 3 and 4 tried to trespass into the property which was under the leasehold right of one Sowral Beevi. When the petitioner was threatened she along with Sowral Beevi made a complaint on 08.08.2020 before the second respondent. During the course of enquiry, the respondents 3 and 4 have undertaken to the effect that they will not make any trouble. On the said ground, complaint was closed. On 10.04.2021 they tried to disturb possession of the petitioner and the above said Sowral Beevi. Again a representation was made. There was no action. So final representation was made on 19.06.2021 seeking police protection and since there was no action on the side of the second respondent, this petition is filed.

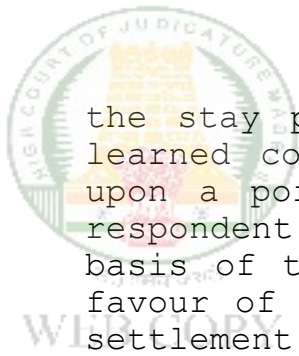
3. Heard both sides.

4. It is a dispute between the mother and the son on one hand and third party on the other hand. The petitioner is aged about 70 years and claimed right over the property on the ground that her son namely, Saravanan, who died without any marriage and issue, she become the absolute legal heir of the abovesaid Saravanan and inherited the property that was allotted to him prior through the partition deed dated 18.08.2020. A portion of the property was leased to one Sowral Beevi by the abovesaid Saravanan on 27.03.2014 measuring 1.25 acres i.e in possession of the abovesaid Sowral Beevi. The suit in O.S.No.147 of 2019 ended in favour of the petitioner. On that basis, she seeks police protection from the official respondents.

5. It is also admitted that there is a decree and judgment passed in O.S.No.147 of 2019 and the respondents 3 and 4 have filed A.S.No.14 of 2021 before the Subordinate Judge, Manamadurai and it is now pending. No stay order was also granted against the judgment and decree.

6. The learned counsel appearing for the private respondents would submit that even though the suit has been decreed in favour of the petitioner they filed an appeal, the appeal is also pending and the stay petition is also pending.

7. Since the title and possession of the property is now under dispute before the appellate court, no police protection can be granted in favour of the petitioner. The copy of the judgment in



the stay petition was also filed by the private respondents. The learned counsel for the private respondents would vehemently rely upon a portion of cross-examination of the petitioner. The third respondent appears to have claimed right over the property on the basis of the settlement deed executed by the deceased Saravanan in favour of the third respondent herein. On the basis of the alleged settlement deed, it seems that he has executed sale deed in favour of the fourth respondent herein. But that settlement deed came to be rejected by the trial court namely, the District Munsif, Thiruppuvanam in the abovesaid suit. But it appears that the settlement deed was an unregistered one. As per Section 17 of the Registration Act. the document requires proper registration. On that ground, the document was invalidated by the trial court. The correctness of the finding is pending before the appellate court. This Court need not go into the factual aspects as well as legality of the claim made by the rival parties. It is suffice to say that the title dispute between the parties is pending before the appellate court. The learned counsel for the petitioner would submit that no stay order has been granted by the appellate court and since a decree for permanent injunction has been granted it must be protected through police force. He would also rely upon the photographs which have been taken showing the alleged trespass and damage to the trees and coconut trees situated in the disputed property. So over which this petitioner appears to have given a complaint also. Since civil dispute is pending before the appellate court, granting of police protection to the petitioner on the basis of the decree of the trial court may not be proper. The petitioner has to approach the concerned court for appropriate remedy. Therefore, this petition is liable to be dismissed but with a direction to the petitioner.

8. In the result, this petition is dismissed. The petitioner is directed to approach the appellate court before which the appeal is pending for appropriate remedy by filing appropriate petition for contempt.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM-VR

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.

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



To:

- 1.The Superintendent of Police,
Sivagangai District, Sivagangai.
- 2.The Inspector of Police,
Thirupuvanam Police Station,
Thirupuvanam,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

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