



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED DATE : 15.07.2021

PRONOUNCED DATE : 28.07.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.8749 of 2021

WEB COPY

Dharmaraj @ Dharmapitchai Anthony

... Petitioner

Vs.

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

2.The Inspector of Police,
Eral Police Station,
Thoothukudi District.

3.Ravibalan

4.Sadhik Ali

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to direct the 2nd Respondent to provide adequate police protection to the petitioner and his family members life and limb and to continue his textile business at the Shop in Door No.14, Savukkai Amman Kovil Street, Eral, Thoothukudi District, based on the representation, dated 25.06.2021.

For Petitioner : Mr.S.Mandhiralingeswaran

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

For R4 : Mr.S.Siva Thilakar

ORDER

This Criminal Original Petition is filed to direct the 2nd Respondent to provide adequate police protection to the petitioner and his family members life and limb and to continue his textile business at the Shop in Door No.14, Savukkai Amman Kovil Street, Eral, Thoothukudi District, based on the representation, dated 25.06.2021.

2. The case of the petitioner:-

(i) The petitioner running a Textile Shop in the name and style of 'Jeyasingh Stores' at Door No.14, Savukkai Amman Kovil Street, Eral, Thoothukudi District, for the past 45 years.

(ii) He also paying rent regularly. The respondents 3 & 4 threatened the petitioner to vacate the shop premises. So, the petitioner filed a suit in O.S.No.60 of 2011 before the District Munsif Court, Srivaigundam and the same was decreed in favour of the petitioner and got permanent injunction.

(iii) On 22.06.2021, the private respondents 3 & 4 demolished the side wall of the petitioner's shop and illegally trespassed into the same and committed theft of materials and dresses worth about Rs.3 lakhs. So,

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a complaint was given by him. In respect of which, a case in Crime No.177 of 2021 was registered for the offences punishable under Sections 379 & 506 (i) of IPC.

(iv) Because of trouble made by the private respondents, the petitioner is not in a position to continue his business. So, representation was sent on 25.06.2021 seeking police protection. Since there was no action, this petition is filed.

3. On behalf of the fourth respondent counter was filed with the following averments:-

(i) This respondent is the owner of the property. The petitioner is not a tenant. Subsequent to the decree in O.S.No.60 of 2011 on the file of the District Munsif Court, Srivaigundam, he filed a suit in O.S.No.223 of 2011 before the Sub Court, Tuticorin, against the petitioner and ten others for declaration. It was transferred to the Sub Court, Tiriuchendur and the same was taken on file in O.S.No.62 of 2017. On 11.02.2008, suit was decreed in favour of this respondent. There was no appeal and became final.

(ii) Even before filing of the above said suit, the petitioner filed R.C.O.P.No.1 of 2008, before the Rent Controller/District Munsif Court, Srivaikundam under Section 8 (5) of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1956, seeking permission to deposite the rent in the Court and the same was dismissed on 11.03.2021. In that case, it has been held that the petitioner is not a tenant.

(iii) The disputed shop is more than 75 years old and it was in a dilapidated condition. So, on 28.12.2015, the Executive Officer of Selection Grade Town Panchayath, Eral, has issued a notice to the respondents to demolish the building and remove the same from the area. After 6 years of issuance of notice, 80% of the building fell down naturally and remaining portion was also brought down based on the judgment passed in O.S.No.62 of 2017 on the file of the Sub Court, Tiruchendur. So, there is no forcible demolition of shop.

(iv) Without verifying the proper records, the respondent police registered a case. The disputed shop door number is wrongly mentioned as 14. The correct number is 15.

(v) This property was purchased by the respondent, on 11.02.2008 and from the date of purchase, he is in possession and enjoyment of the same. So, the petitioner has no right in the disputed property.

4. Heard both sides.

5. Reading of the petition and counter, it is seen that it is out and Out of title dispute over the disputed property. The petitioner says that he is the tenant in Door No.14 in Savukkai Amman Kovil Street, Eral, Thoothukudi District. But, whereas, the four respondent says that the correct door number is 15 and never, he was in the possession and enjoyment, as a tenant. Even though the suit in O.S.No.60 of 2011 on the file of the District Munsif Court, Srivaikundam, ended in favour of the petitioner. Later part of the events shows that the title has been declared in favour of the fourth respondent, in respect of the disputed property, in O.S. No.62 of 2017 on the file of the Sub Court, Tiruchendur. Even in O.S.No.60 of 2011, on the file of the District Munsif Court, Srivaikundam, it is clearly found that the petitioner is not a tenant, in respect of property, considered to be only a trespasser. According to the Trial Court, he has to be evicted, only by way of,



due process of law. So, on the basis of possession, the suit was decreed in favour of the petitioner. Now, the fourth respondent has become rightful owner and the petitioner cannot claim any protection from the police.

6. The fourth respondent has also filed a communication from the Executive Officer of Selection Grade Town Panchayath, Eral, dated 28.12.2015, relating to the removal of dilapidated shop. Now, 6 years passed. According to the fourth respondent, the entire property got damaged and fell down naturally. So, according to him, nothing remains in the property. So, no question of theft. But, however, a criminal case has been registered and the police officials advised the fourth respondent and the other accused persons, work out their remedy in the above said criminal case.

7. The petitioner being a trespasser in the property, cannot seek police protection by exercising jurisdiction under Section 482 Cr.P.C. Similarly, there is no life threat. So, the question of granting police protection does not and will not arise. The petition lacks *bonafideness* and it deserves dismissal accordingly, the same is dismissed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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,
Thoothukudi District,
Thoothukudi.
- 2.The Inspector of Police,
Eral Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to M/s.S.Siva Thilakar, Advocate (SR24340)

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