



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.08.2021

Delivered On: 21.10.2021

CORAM

THE HONOURABLE MR.JUSTICE G.ILANGOVAN

Crl.O.P.(MD).No.17594 of 2019

WEB COPY

P.Ayyasamy

... Petitioner

Vs.

1.The Inspector of Police,
Kurivikulam Police Station,
Kurivikulam,
Tenkasi District.

2.Ramasamy

... Respondents

Prayer: This Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to direct the respondents to give adequate police protection to the life and liberty of the petitioner and his workers to install stones and to put iron fence around the boundaries of land 5 Acres and 46 cents as well as to cultivate in survey number 72/1A, 1B, 1C at South Kuruvikulam Village, Tiruvenkadam Taluk on the basis of the representation of the petitioner, dated 06.11.2019.

For Petitioner : Mr.R.Krishnan

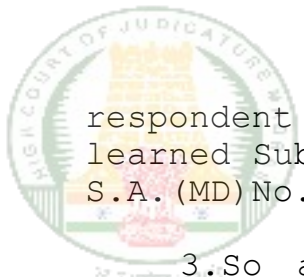
For Respondents : Mr.R.M.Anbunithi for R1
Additional Public Prosecutor
Mr.V.Selva for R2

ORDER

This petition has been filed seeking police protection to the life and limb of the petitioner and his workers to install boundary stones and fencing his cultivating property situated in S.Nos.72/1A, 1B, 1C measuring 5 Acres and 46 cents in South Kuruvikulam Village, Tiruvenkadam Taluk, based upon the representation dated 06.11.2019.

2.The case of the petitioner in brief:

The property mentioned above was purchased by the petitioner from Seenivasan, Tirupathi, Rajammal and Thiyagarajan, on 25.09.2008. The patta was also transferred in the name of the petitioner. Ever since from the date of purchase, he is in enjoyment and possession. There was some confusion with regard to the correct boundary lines. Hence the petitioner faced trouble at the hands of one Ramasamy, who is the adjacent land owner the second respondent herein. So he filed a suit for injunction in O.S.No.45 of 2009 against the second respondent, who is the above said Ramasamy before the Additional District Munsif Court, Sankarankoil which has also ended in his favour. Against that judgment and decree, the second



respondent filed A.S.No.13 of 2014 that was also dismissed by the learned Sub Judge, Sankarankoil. Later he preferred second appeal in S.A.(MD)No.765 of 2014 that was also dismissed.

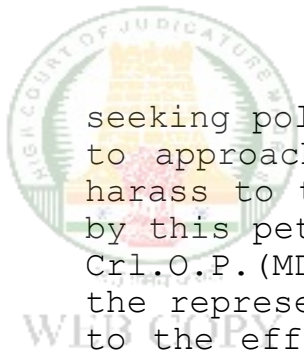
3. So after succeeding in the above said second appeal, the petitioner made representation to the Tahsildar, Tirunelveli and Surveyor on 13.06.2018 to rectify the defects in the boundaries by measuring the property. There was no proper action. So he filed W.P.(MD).No.15830 of 2019 to survey the land and fix the boundary line. The Taluk Surveyor measured the property and fixed the boundary line also. But when the petitioner was trying to put up boundary stones and cultivate the land, the second respondent made interference. So the petitioner made a representation which was also registered in C.S.R.No.726 of 2021, but there was no action. Hence, the petition.

4. Heard both sides.

5. It is a case of boundary dispute between neighbours. The right and title over the property in respect of which now the police protection sought has been decided in favour of this petitioner right from the Munsif Court up to this Court. The petitioner has produced the Judgment in O.S.No.45 of 2009 on the file of the Additional Munsif Court, Sankarankoil dated 22.01.2014 and Judgment in A.S.No.13 of 2014 on the file of the Sub Judge, Sankarankoil, which is also dated 11.07.2014. Against the concurrent judgment of the trial and first Appellate Court, the second appeal has been preferred by the second respondent in S.A.(MD).No.765 of 2014. It was also ended in favour of the petitioner by the judgment dated 15.12.2016. So it appears that in 2016 itself the right and title over the property in dispute has been confirmed by the civil Courts.

6. When the matter was taken up for hearing, the second respondent submitted that seeking the review of judgment in S.A.(MD) No.765 of 2014, Review application has been filed before this Court and due to some clerical and filing defects, now it is under the consideration of the Registry. In para No.4 of the counter affidavit, it has been stated that after rectifying all the defects he re-presented the Rev.Aplc(MD).No.SR472 of 2017 and it is still pending. I am unable to agree the point which has been raised by this second respondent. The petition filed in 2017 certainly would not have been pending at the Registry for numbering. When the matter was taken up for hearing on 28.07.2021 a specific direction was given to the second respondent to intimate the number of the review application and the stage. In pursuance of which only a counter has been filed stating about the above said facts.

7. So before filing this petition, it appears that this petitioner moved E.A.No.47 of 2017 in E.P.No.8 of 2017 in the above said O.S.No.45 of 2009 before the Additional Munsif Court, Sankarankoil, seeking police protection. But the same was dismissed

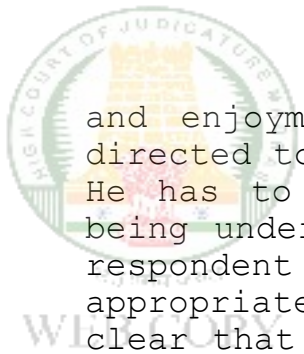


seeking police help that was also closed by directing the petitioner to approach the competent civil Court. Seeking a direction not to harass to the second respondent on the basis of the complaint given by this petitioner has filed a petition seeking police protection in Crl.O.P.(MD).No.17335 of 2019, which has also closed on the basis of the representation made by the learned Additional Public Prosecutor to the effect that the representation made by this petitioner came to be closed after enquiry. So the sequence of the events shows that even though the right, possession and title over the property in dispute has been confirmed up to this Court, still the dispute exists between the parties. In respect of the dispute, it appears that a case in Crime No.188 of 2020 has been registered against the daughter of the second respondent on 04.09.2020. In the complaint, this petitioner has stated that after civil Court decree for the purpose of measuring the property he moved W.P.(MD).No.15830 of 2019 before this Court and that was allowed. Later he also filed Crl.O.P.(MD).No.2186 of 2019, seeking police protection and with the strength of the above said order, he visited the property for the purpose of undertaking cultivation. That order is dated 17.10.2019.

8.This Court in the above said judgment and order by referring to the judgment of this Court in ***Radhika Sri Hari another Vs. Commissioner of Police, Coimbatore City, Coimbatore*** reported in ***2014 (2) CTC 695***, ordered police protection for enjoying the property also. It appears that thereafter also the problem did not stop and the petitioner could not able to cultivate the property again as mentioned above. On 04.09.2020 the daughter of the second respondent appears to have made trouble. She appears to have prevented the petitioner from taking the tractor for cultivation work. In that case, investigation has also been completed. In Crl.O.P.(MD).No.2186 of 2019 also he moved similar petition for direction, which was also ordered, on 12.02.2019.

9.So the sequence of events and several proceedings initiated by the petitioner shows that inspite of repeated orders passed by this Court still this petitioner is not in a position to enjoy the property as per the civil Court judgment. It is very unfortunate that the first respondent is not properly providing police protection to the petitioner. Passing repeated orders for granting police protection will amount to un-executable orders. Such a sort of development and position cannot be accepted.

10.The first respondent is hereby directed to summon the second respondent and severely warn him stating out the facts and circumstances and as well as the judgment passed by the civil Courts. The second respondent cannot be expected drag on the dispute for ever stating that the review petition is pending before this Court. If the review petition has been numbered and disposed of on merits in his favour then only the second respondent can make any claim. Till then, he has no right to interfere into the possession



and enjoyment of the petitioner. The first respondent is hereby directed to ensure the protection to the property of the petitioner. He has to ensure that the property is fenced and cultivation is being undertaken. If any trouble arises at the hands of the second respondent and if any trouble is made by the second respondent, appropriate action may be initiated against him. It is also made clear that the petitioner should not be made to approach this Court again and again for repeated orders. Let all the papers be placed before the Superintendent of Police, Tenkasi, for suitable direction and monitoring.

11.With this above directions, this petition stands allowed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

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

+1 CC to M/s.K.ANAND, Advocate (SR-32121[F] dated 21/10/2021)

Crl.O.P.(MD).No.17594 of 2019
21.10.2021

NSN(CO)

GC/PM(02.11.2021) 4P 5C

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