

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.06.2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Cr1.O.P.No.8393 of 2022

PARVATHI

... Petitioner

Vs.

1.State represented by
The Superintendent of Police
Kallakurichi District

2.The Inspector of Police
Kachirapalaiyam Police Station
Kallakurichi District

3.Krishnan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to direct the respondents 1 and 2 to give police protection to harvesting / cut the sugarcane from the petitioner's property bearing Survey No.511/4 measuring an extent of 1 acre 53 cents situated at South Kattukottai, Sellampattu Village, Kallakurichi District.

For Petitioner ... Mr.M.Mohammad Riyaz
for Mr.S.Ramachandran

For Respondents ... Mr.A.Gokulakrishnan
A.P.P for R1 & R2
Mr.K.Kathiresan for R3

O R D E R

This Criminal Original Petition is filed under Section 482 Cr.P.C., to direct the respondents 1 and 2 to give police protection to harvest / cut the sugarcane from the petitioner's property bearing Survey No.511/4 measuring an extent of 1 acre 53 cents situated at South Kattukottai, Sellampattu Village, Kallakurichi District.

2.Heard Mr.M.Mohammad Riyaz, the learned counsel appearing for the petitioner, Mr.A.Gokulakrishnan, the learned Additional Public Prosecutor for the respondents 1 and 2, and Mr.K.Kathiresan, the learned counsel for the 3rd respondent.

3.It is the contention of the petitioner that he became the owner of the property pursuant to a decree obtained for specific performance and later execution petition was filed for possession and the possession too delivered to him. When the petitioner planted sugarcane crop and tried to harvest the same, the 3rd respondent herein claiming right over the property, preventing the petitioner to do the cultivation. Hence, he seeks for a direction of police protection.

4.Learned counsel appearing for the 3rd respondent submitted that the Suit filed by the petitioner in O.S.No.435 of 2017 was decreed exparte and the 3rd respondent has also filed a Suit seeking to set aside the exparte decree obtained by the petitioner. He added that, apart from the above, R.D.O. Proceedings are also pending against the said property.

5.I have perused the entire records and there are proceedings in respect of the possession of the property. Such view of the matter, merely on the basis of the statement made by the learned counsel for the petitioner and the decree obtained by him, the Court cannot grant a blanket direction to police protection, particularly, when there is a rival claim by the other side, that should be adjudicated only by the Civil Court. In this aspect, the Hon'ble Apex Court in the case of 'PR.Muralidharan and others Vs.Swami Dharmananda Theertha Padar' reported in 2006 4 SCC as held as follows:

'...19.A Writ for "Police Protection" so-called, has only a limited scope, as when the Court is approached for protection of rights declared by a decree or by an order passed by a civil Court. It cannot be extended to cases where rights have not been determined either finally by the civil Court or, at least at an interlocutory stage in an unambiguous manner, and then too in furtherance of the decree or order.'

6.In such a view of the matter, this Criminal Original Petition is dismissed. The petitioner is granted liberty to move the Civil Court for appropriate relief.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Superintendent of Police
Kallakkurichi District

2.The Inspector of Police
Kachirapalaiyam Police Station
Kallakurichi District

3.The Public Prosecutor
High Court of Madras
Chennai 600 104.

+lcc to Mr.K.Kathiresan, Advocate, S.R.No.40323

Cr1.O.P.No.8393 of 2022

AK-II (CO)
SB(11/07/2022)