



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 27/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.OP(MD)No.1003 of 2019

WEB COPY

1.Subramanian
2.Thannasi
3.D.Ravichandran
4.K.Palanichamy
5.Akkammal
6.S.Krishnan
7.M.Krishnan
8.S.Krishnan
s/o.Surili Gounder
9.M.Ganesan

: Petitioners

Vs.

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

2.The Inspector of Police,
Palani Taluk Police Station,
Palani, Dindigul District.

3.G.Janarthanan

4.Aswin Venkatraman

: Respondents

Prayer: Criminal Original Petitions have been filed under section 482 of the Criminal Procedure Code, to direct the respondents 1 and 2 to give adequate police protection for the lift and limb of the petitioners and to have peaceful possession and enjoyment of the properties in compliance of the order made in IA No.260 of 2013 in O.S No.124 of 2013 by the Principal District Judge, Dindigul District, dated 01.02.2016 with respect of Survey Nos.254/1C2, 254/1C3, 254/1C5, 254/1C6, 254/1C7, 254/1C9, 254/1C10, 254/1C14 and 254/1C15 with an total extent of 21 acres 47 cents situated at Andipatti Village, Palani Taluk, Dindigul, District, based on their complaint dated 15/12/2018 made before the respondents 1 and 2.

For Petitioners : Mr.D.Venkatesh

For R1 and R2 : Mr.SS.Madhavan
Government Advocate
(Criminal side)



For R3

: Mr.D.Shanmugaraja Sethupathi

ORDER

This petition has been filed seeking for a direction to the respondents 1 and 2 to give adequate police protection for the life and limb of the petitioners and to have peaceful possession and enjoyment of the properties in compliance of the order made in IA No.260 of 2013 in O.S No.124 of 2013 by the Principal District Judge, Dindigul District, dated 01.02.2016 with respect of Survey Nos.254/1C2, 254/1C3, 254/1C5, 254/1C6, 254/1C7, 254/1C9, 254/1C10, 254/1C14 and 254/1C15 with an total extent of 21 acres 47 cents situated at Andipatti Village, Palani Taluk, Dindigul, District, based on their complaint dated 15/12/2018 made before the respondents 1 and 2.

2.The case of the prosecution in brief:-

The property in Survey No.254 at Andipatti village vested with the Government under the Land Ceiling Act. Later, it was sub-divided into various numbers and the predecessors of the petitioners were assigned with the lands. It was done in 1983. Ever-since the date of assignment, they were in possession. After the demise of the predecessors, the petitioners claim right over the properties. The total extent is 21.47 acre, wherein the possession of the property as per the sub-division, it is mentioned in the petitioners name. In the meantime, one Ashwin Venkataraman and Hari Venkataraman claimed title over the property in Survey Nos.254 and 701 stating that they purchased the property from some 3rd parties. So, he filed Crl.OP(MD) No.15613 of 2014 seeking police protection in respect of Survey No.254/1A to A15, 1B11, 1B12, 1C17 and 254/5, 6 and 7 measuring about 69.99 acres. The 3rd respondent has stated that he is the manager of the above said Ashwin Venkataraman, who in turn purchased the property from one Dhandapani, Ayyavu Asari and another. So he claimed possession over the above said total extent on behalf of his principal. So, this court, by order, dated 20/10/2014, directed the respondents 1 and 2 to give police protection. Thereafter, the petitioners filed petition to recall the above said order stating that O.S No.124 of 2013, which was filed for declaration is pending before the District Court, Dindigul. Suppressing the above said fact only, the order has been obtained. So, this court directed the Principal District Judge, Dindigul to dispose of the interim injunction application filed by the principal of the 3rd respondent within a period of six weeks. Later, the suit was dismissed for default. Later, that was restored to file, on 01/02/2014. A detailed order has been passed in IA No.260 of 2013 granting *status quo ante* in respect of 30.30 acres. Even though the principal of the 3rd respondent claimed interim injunction that the total extent has been 69.99 acres, with regard to the remaining 39.65 acres, it was held that the petitioners and others are in possession and



enjoyment.

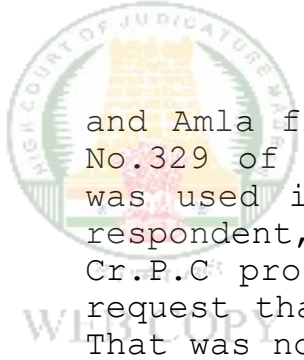
3. So during the pendency of the CrI.OP(MD)No.15613 of 2014, it came to know that the assignments were cancelled. On 04/04/2015, they made a application before the District Collector, Dindigul. But even after the cancellation of the assignment, they are in possession. So again, on 20/08/2018, they made a complaint for re-issue of the assignment. The Sub Collector, Palani has sent a reply stating that they will process it as per the rules.

4. Again the 3rd respondent filed CrI.OP(MD)No.18091 of 2018 for directing the police officials to provide police protection on the basis of the order passed in I.A No.260 of 2013. FIRs in Crime Nos.162/2014, 550/2014, 490/2014, 143/2015, 1027/2015, 169, 232 and 329 of 2018 were registered against the petitioners as if they made trespass. Against the 3rd respondent also registered FIRs in Crime Nos.548/2014, 549/2014, 144/2015 and 214/2018 which were pending. No interim injunction order was passed by the District Court. In respect of the property, it belongs to the petitioners. More-over, the court directed the 3rd respondent to give a fresh complaint to the 2nd respondent, by enclosing the earlier order. Taking advantage of the observation made by this court, the 3rd respondent influenced the respondents 1 and 2. Now they are threatening the petitioners to hand over the possession of the properties to the 3rd respondent. On 15/12/2018, they made a representation in this regard. So in the view of the above circumstances, this petition has been filed seeking a police protection in respect of the total extent of 21.47 acres situated in various survey numbers.

5. Heard both sides.

6. Let us straightway go to the counter that has been filed by the 2nd respondent, wherein it has been stated that there is no order passed by the Principal District Judge, Dindigul in O.S No.124 of 2013; So according to the 2nd respondent, there is stay order; In the absence of any stay order passed by the competent civil court, the petitioners cannot seek any legal right and they cannot also comply the request that has been made by the petitioner for providing police protection.

7. Noting that continuous trouble exists between two parties, several cases have been registered against both the parties as mentioned in the petition. So finding that there is a continuous trouble, the police made a request to initiate proceedings under section 107 Cr.P.C before the Executive Magistrate. Accordingly, the Revenue Divisional Officer has passed an order on 07/11/2018 under section 107 Cr.P.C against the petitioners and others for keeping peace. Later that order was set aside by this court on technical grounds. During the pendency of the 107 proceedings the petitioners alleged to have stolen and removed the tender coconut



and Amla from the properties. In respect of which, a case in Crime No.329 of 2018 was registered. The vehicle was also seized, which was used in the above said occurrence. So according to the first respondent, it is a continuous trouble between the parties and 107 Cr.P.C proceedings were also initiated. In such circumstance, the request that was made by the petitioners seeking police protection. That was not complied.

8.Now perusal of the records as well as the submissions of either side, it is seen that there is a dispute with regard to the possession of the property, which are mentioned in the petition.

9.As rightly pointed out by the private respondents, the Principal District Judge, Dindigul has not passed any order stating that these petitioners are in possession of the disputed properties. It is also stated by the petitioners that the petitioners themselves filed request for assignment of the lands which is also under consideration.

10.The learned counsel appearing for the private respondents would submit that absolutely, there was no objection in respect of the interim injunction that was passed in respect of 30.34 acres. According to the private respondents, the contention that there is no clear finding by the Principal District Judge, Dindigul that the petitioners are in possession of the remaining 39.65 acres.

11.Let us go to the order that has been passed by the Principal District Judge, Dindigul, in I.A No.260 of 2013. The 4th respondent through his power agent R.Selvathasan, Revathy Devarj and Hari Venkatraman are the plaintiffs in the above said suit. These petitioners and others were arrayed as defendants. In para No.25, there is a clear finding to the effect that as per the document that has been produced, the petitioners are entitled to 30.34 acres in Survey No.254/3 and they cannot claim injunction in respect of 69.99 Acres. Based upon the commissioner report, it has been pointed out that the 4th respondent in that petition cannot claim exclusive possession over the entire property. So in the concluding portion, the 4th respondent in that petition was granted interim injunction in respect of 30.34 acres. The respondents who are the petitioners herein contended that they are the assignees of the land, as mentioned in the petition. So it is seen that there is clear finding by the Principal District Judge, Dindigul to the effect that the disputed property is not in exclusive possession of the petitioners. As mentioned in the order, the petitioners are not in possession of the disputed property. But unless the petitioners are able to prove that they are in legal possession over the property, the first respondent cannot be directed to provide police protection. The petitioners have to work their remedy only in the pending civil proceedings.



12.The learned counsel appearing for the petitioners would submit that they are ready to wait till the disposal of the suit. But however, he would submit that in the meantime, police should not interfere into the issue and disturb their possession. This was objected by the learned counsel appearing for the 4th respondent stating that the petitioners are continuously making trouble, indulging in criminal activities, frequently trespassed over the property and steal away the coconut and other things of the properties. Since there is frequent trouble, certainly police interference is required, otherwise, that cannot be prevented.

13.The learned Additional Public Prosecutor would submit that noting that there is a continuous trouble between the parties and because of the frequent registering of the FIRs against each parties, on 23/08/2021 the RDO directed the parties to comply the order that has been passed by the civil court in I.A No.260 of 2013. So in the above said circumstances, granting of police protection to one of the parties, instead of solving the problem, it will escalate the issue. It is a clear finding by the trial court to the effect that right of the parties can be decided only at the time of trial. So till that time, the parties must maintain the peace in the locality without making any trouble to the each other.

14.So this criminal original petition is disposed of with an observation that the parties are directed to abide by the final order that has to be passed by the Principal District Judge, Dindigul, in O.S No.124 of 2013. It is further directed that the Principal District Judge, Dindigul may see that the suit be disposed of at the earliest, since already a direction has been issued by the court concerned, to complete the trial process.

With the above direction, this criminal original petition is **disposed of.**

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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**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 Principal District Judge,
Dindigul.
2. The Superintendent of Police,
Dindigul District, Dindigul.
3. The Inspector of Police,
Palani Taluk Police Station,
Palani, Dindigul District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.D. SHANMUGARAJA SETHUPATHI, Advocate (SR-21948[F]
dated 28/04/2022)

Cr1.OP(MD)No.1003 of 2019
27.04.2022

sg(CO)
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