



Crl.O.P.No.5623 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 21.06.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

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G.Ponnusamy

... Petitioner

Versus

1.The State of Tamil Nadu,
Rep by the Superintendent of Police,
Tiruvallur,
Tiruvallur District.

2.The Inspector of Police,
M7 Manali Pudunagar Police Station,
Manali,
Chennai – 103.

3.Sivakumar Bansal

4.Rizwan Md

... Respondents

PRAYER : Criminal Original petition filed under Section 482 Cr.P.C. praying to direct the 2nd respondent police to provide police protection to the petitioner's vacant landed property measuring an extent of 75 cents, comprised in survey No.116/4 situate in Vichur village, Ponneri Taluk and Thiruvallur District.



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For Petitioner : Mr.S.Arun Kumar

For Respondents 1 & 2 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This petition has been filed seeking a direction to the second respondent police to provide police protection to the petitioner's vacant land property measuring an extent of 75 cents, comprised in survey No.116/4 situate in Vichur village, Ponneri Taluk, Thiruvallur District.

2. The contention of the petitioner is that his paternal grand father Late Karuppan was owning a dry agricultural land to an extent of 1.50 acres comprised in S.No.116/4 in Vichur village, Ponneri Taluk. This land was allotted to the petitioner's grandfather as a depressed class land by the Government. The Petitioner's grandfather Karuppan died intestate before 1968 leaving behind his wife (petitioner's grandmother) Late Muniammal and two sons viz., Chithirai and Gopal, the petitioner's father. After the death



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of petitioner's grandfather, the 1.50 acres of land was divided equally among the petitioner's father and his brother Chithirai being 75 cents each. During 1968, when the petitioner was minor, petitioner's uncle Chithirai sold out his 75 cents to one Desu Nadar vide Doc.No.7168/1968. The remaining 75 cents was under the peaceful possession and enjoyment of the petitioner's father Late Gopal. Thereafter this land was devolved into the petitioner.

2.1. The learned counsel for the petitioner further submits that the petitioner's uncle Chithirai with an intention to grab 37 ½ cents of land out of the remaining 75 cents, which belonged to petitioner's father, had illegally executed a Gift deed in favour of his three daughters vide Doc.No.2636/2010 dated 16.04.2010. In the said document in Jakkubandhi, the northern boundary was shown as the land belongs to petitioner's father Late Gopal. This would confirm that the petitioner's father was holding the land of 75 cents till the year 2010. The petitioner's uncle Chithirai had no authority or right to execute the gift deed of 37 ½ cents in the year 1968. The said



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Chithirai had already sold away his share of 75 cents. The cousins of the petitioner have created documents and also executed documents using the same and created problem to the petitioner. The petitioner later came to know that one Marimuthu created a false sale deed in the year 1982, as if the petitioner's father Gopal had sold 75 cents of land by way of Doc.No.730/1982, when the petitioner was 14 years old minor and the petitioner's name has been falsely shown as Munusamy in the said sale deed. The said Marimuthu in the year 1983 sold away the 75 cents of land to one Late Omanth vide sale deed Doc.No.2311/1983 and the Late Omanth sold away the 75 cents of land to the third respondent/Sivakumar vide sale deed Doc.No.9431 of 2008. Later the third respondent Sivakumar had sold away the 75 cents to fourth respondent/Rizwan Md vide Doc.No.1833 of 2021. The petitioner is the rightful owner of the above said 75 cents of land and false document has been created taking advantage that the petitioner's father was illiterate. After the death of petitioner's father on 03.07.1981, the petitioner is in possession and enjoyment of the 75 cents of land allotted to the petitioner's



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father. Neither the petitioner's cousins nor the respondents 3 and 4 have any right over the property. Further the respondents 3 and 4 using muscle power had destructed the Tea shop and a portion of tinker shop and demolished their residential house situated in the said property. Further submitted that the petitioner had given representation to the Revenue authorities to transfer the revenue records in the name of the petitioner. For the inaction of the revenue authorities the petitioner had filed a writ petition seeking name transfer and patta. He further submitted that in the case of *Radhikar Sri Hari vs. Commissioner of Police*, this Court by order dated 12.03.2014 had directed the police to give protection to the property, if there is no civil suit or dispute over the properties. In view of the same, the petitioner had sought for police protection to fence his property.

3. The learned counsel appearing for the fourth respondent filed a typed set enlisting sale deed documents, judgment, FMB sketch, Patta, Chitta, Adangal, copy of the police complaint earlier given and the order passed by



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this Court in Crl.O.P.No.2167 of 2022 seeking police protection by the fourth respondent. He further submitted that the petitioner's grandfather Karuppan originally owned 1.50 acres of land and after his demise in the year 1967, the said 1.50 acres was divided between the petitioner's father Gopal and his uncle Chithirai being 75 cents each. The said Chithirai sold his share of 75 cents to Desu Nadar in the year 1968. As regards the petitioner's father's share of 75 cents is concerned, he sold his share to one Marimuthu in the year 1982, who in turn sold the same to one Omanth in the year 1983 and Omanth had sold the property to third respondent in the year 2008 and the third respondent sold the property to fourth respondent in the year 2021. All the sale deeds are registered sale deeds.

3.1. In the meanwhile, the said Chithirai filed a civil suit in O.S.No.317 of 2009 before the District Munsif, Ponneri in which the petitioner Ponnusamy is defendant No.1 and Marimuthu, Omanth and Sivakumar are the other defendants. This suit came to be dismissed on



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22.10.2018. Thereafter the appeal suit in A.S.No.18 of 2019 has been filed

before the Sub Court, Ponneri in which the petitioner and others are arrayed

as respondents. The appeal came to be dismissed on 15.12.2021. The

petitioner had filed caveat. So far, the appeal suit has not been challenged by

the petitioner. In the meanwhile, the fourth respondent attempted to put up

fencing in his property which was objected by the petitioner. Hence, the

fourth respondent filed a petition in Crl.O.P.No.2167 of 2022 before this

Court. This Court, on 02.02.2022, after giving notice to the petitioner and

verifying the documents with the revenue and registration authorities had

given police protection and the property was fenced by the fourth respondent

on 16.03.2022. The petitioner's main allegation is that when his father died in

the year 1981 no sale deed could have been executed by him in favour of

Marimuthu, who is the vendor in succession to the third and fourth

respondents. The death certificate produced by the petitioner later found to be

not a genuine one. The petitioner with obvious reasons has filed this petition.

Hence, prayed for dismissal of the petition.



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4. Learned Additional Public Prosecutor submits that earlier the fourth respondent herein had sent a police complaint stating that the petitioner herein had caused obstruction for the fourth respondent to fence his property. Thereafter he approached this Court in Crl.O.P.No.2167 of 2022 and this Court by order dated 02.02.2022 directed the fourth respondent to produce all the documents to the police, who caused enquiry with the Revenue and Registration authorities, confirmed the genuineness of the document thereafter given police protection. After giving notice to the petitioner, police protection was provided and the property was fenced on 16.03.2022. The petitioner's primary contention is that petitioner's father died in the year 1981 and after his death the entire sale deed documents to the property of his father was created using the forged documents and respondents 3 and 4 are claiming right over the property. He further submitted that death certificate produced by the petitioner shows that the petitioner's father died on 03.07.1981 and the death has been registered with



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the Corporation Office on 22.07.1981. A death certificate bearing No.D5095151316/1981 produced. This death certificate was examined, verified and submitted to the Corporation authorities, who in a communication in Na.Ka.No.0022/22 dated 03.03.2022 had given a report after verifying the documents that the death certificate produced by the petitioner is not genuine. Thus cutting the root of the petitioner's claim over the property. The second respondent police had filed a status report regarding the enquiry conducted with regard to the petitioner's complaint on the disputed property and filed a typed set along with documents.

5. Considering the submissions made and on a perusal of the material it is seen that the petitioner's objection and claim is that when the petitioner's father died in the year 1981, the sale deed could not have been executed by petitioner's father Gopal to Marimuthu in the year 1982 is based on the death certificate produced, which on verification found to be not genuine. On the other hand, fourth respondent's title over the property has



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been confirmed by the revenue authorities and registration authorities on verification of documents and revenue records. If the petitioner is aggrieved, the only remedy now available is to approach the Civil Court with any available documents.

6. In view of the same, this Court is not inclined to entertain this petition and the same is dismissed.

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Index : Yes / No
Internet : Yes/No
Speaking / Non-speaking order
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To

- 1.The Superintendent of Police,
Tiruvallur,
Tiruvallur District.
- 2.The Inspector of Police,
M7 Manali Pudunagar Police Station,
Manali,
Chennai – 103.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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