

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.25992 of 2022

V.Krishnamoorthy

... Petitioner

Vs.

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

2.The Inspector of Police [Law & Order],
Maduranthagam Police Station,
Madhuranthagam Taluk,
Chengalpattu District.

3.Balasubramanian

... Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to direct the respondents 1 and 2 herein to consider the representation of the petitioner dated 14.06.2022 and provide adequate police protection to the life and limb of the petitioner and for the agricultural work in the Punja land comprised in Survey No.312/3 with an extent of 0.71 cents, Survey No.312/4B with an extent of 2.30 acres, Survey No.312/6 with an extent of 0.87 cents, Survey No.312/8 with an extent of

0.17 cents in all total extent of 4.05 acres situated in No.22, Vedavakkam Village, Maduranthagam Taluk, Chengalpattu District.

For Petitioner : Mr.S.P.Sudalaiyandi

For R1 & R2 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

For R3 : Mr.N.Nithianandam

ORDER

The petitioner sent a representation on 14.06.2022 but the same was not acted upon. Hence, the present petition is filed seeking direction to the respondents 1 and 2 to consider the representation and act on the same.

2.The petitioner is represented by his power agent S.Kucheladoss. On 07.04.1987, one Subburaya Reddiar filed a suit in O.S.No.42 of 1987 before the Sub Court, Chengalpattu against one Radhabai Ammal for recovery of money with interest with a charge over the property in S.Nos.312/3, 312/4B, 312/6 and 312/8 in Vedavakkam Village, Madurantakam Taluk, Chengalpattu District. During the pendency of the suit, Subburaya Reddiar passed away and his legal heir Krishnamoorthy was impleaded as legal representative. Thereafter, the suit was decreed in

favour of the said Krishnamoorthy who filed an execution petition for sale of property to release the decree amount in E.P.No.126 of 1996 in O.S.No.42 of 1987. Since there were no bidder, the decree holder Mr.Krishnamoorthy became the successful bidder in the auction conducted on 17.03.1997. During the pendency of the above litigation, one Balasubramanian/third respondent herein purchased the property from the said Radhabai Ammal on 13.07.1987 and 17.07.1987. C.R.P.(NPD)No.4003 of 2007 was filed seeking for delivery of property and on 19.07.2019 delivery of property was handed over to the decree holder Krishnamoorthy, the same has been recorded by the Court Amin and after effecting delivery, report was submitted to the Central Nazir, Sub Court, Madurantakam on 22.07.2019. This Court recorded the same and disposed of the Civil Revision Petition. The third respondent, who is the pendente lite purchaser filed S.L.P. [Civil Diary] No.23784 of 2019 before the Apex Court seeking for stay of operation of the impugned final judgment and order dated 11.03.2019 passed by this Court in C.R.P(NPD).No.4003 of 2007 on 19.07.2019. The Apex Court directed the parties to maintain status quo as on that day. The said order copy was made ready only on 08.08.2019 and

on 19.07.2019 property was delivered to the said Krishnamoorthy and he is in continuous possession and enjoyment of the same. Now, using the Apex Court order the third respondent attempting to dispossess the said Krishnamoorthy from the schedule mentioned property. Hence, the said Krishnamoorthy lodged a complaint to the Superintendent of Police, Chengalpattu on 09.04.2021, based on his complaint the Inspector of Police, Madurantakam conducted an enquiry and submitted a report on 08.07.2021, in which it is recorded that Krishnamoorthy is in lawful possession and enjoyment of the property. The petitioner being the power of attorney of Krishnamoorthy is carrying on agricultural activities in the schedule mentioned property and now the third respondent is interfering in the peaceful enjoyment of the petitioner and threatening him with abusive language and muscle power. Hence, the petitioner sought for police protection and also to take suitable action against the third respondent.

3.Heard Mr.S.P.Sudalayandi, learned counsel appearing on behalf of the petitioner.

4.Learned Additional Public Prosecutor submits that on the complaint of the petitioner, the petitioner and the third respondent were called for enquiry and found that there have been several litigations between them. He would submit that the petitioner is a Power of Attorney of Krishnamoorthy, whose father had given loan to one Radhabai Ammal and taken the property as security. The said Krishnamoorthy filed a civil suit and later got property auctioned but the possession of the property was with Radhabai Ammal. Thereafter, Execution Petition has been filed and the property has been handed to Krishnamoorthy by the Court Amin on 19.07.2019. In the meanwhile, the said Radhabai Ammal sold the property to the third respondent and he had taken objections for the civil suit, execution petition as well as participated in the Civil Revision Petition. In the meanwhile, the third respondent approached the Apex Court in S.L.P. [Civil Diary] No.23784 of 2019 and the Apex Court ordered Status quo on 19.07.2019. He further submitted that according to the third respondent, the possession and enjoyment of the property is with him.

5.Learned counsel for the third respondent submits that the petitioner was aware that the third respondent had already approached the Apex Court even prior to 19.07.2019 and the petitioner suppressed the same before the Court below. He would submit that on 19.07.2019 the Apex Court ordered status quo and in the meanwhile, it was projected by the petitioner as though on 19.07.2019 possession was handed over to the petitioner and memo has been filed by the petitioner before the Court only on 23.07.2019.

6.Considering the submissions made and on perusal of the materials, it is seen that there has been civil litigation between the petitioner and the third respondent, now the case is pending before the Apex Court and there are rival claim between the petitioner and the third respondent with regard to the possession and enjoyment of the property. In view of the same, this Court cannot direct any police protection for the property dispute which is pending. It is for the petitioner or the third respondent to approach the Civil Court and seek appropriate orders.

7.With the above observations, the Criminal Original Petition stands dismissed.

26.06.2023

Index : Yes/No
Speaking Order/Non-Speaking Order
cse

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M.NIRMAL KUMAR, J.

cse

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