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Crl.O.P.No.30705 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27.06.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.30705 of 2022

Easu

... Petitioner

Versus

1.The Deputy Superintendent of Police,
Uthukkottai Sub Division,
Thiruvallur District.

2.The State rep. by
The Inspector of Police,
Vengal Police Station,
Thiruvallur District.

3.Chandran
[R3 impleaded as per order in Crl.M.P.
No.19546/2022 in Crl.O.P.No.30705
of 2022 dated 15.06.2023]

... Respondents

PRAYER : Criminal Original petition filed under Section 482 Cr.P.C. praying to direct the respondent police to provide police protection to the petitioner while put up fencing on his property in an extent of 246 square meter comprised in Survey No.60/1, Karikkalavakkam Village, Thiruvallur District on the basis of the petitioner's complaint dated 17.09.2022.



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For Petitioner : Mr.R.Karunagaran

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

For Respondent-3 : Mr.R.Jayaprakash

ORDER

This petition has been filed by the petitioner seeking a direction to the respondent police to provide police protection to the petitioner while putting up fencing on his property in an extent of 246 square meter comprised in Survey No.60/1, Karikkalavakkam Village, Thiruvallur District on the basis of his complaint dated 17.09.2022.

2. The petitioner lodged a complaint with the second respondent on 16.09.2022. Thereafter, CSR No.938 of 2022 assigned and since no action has been taken, he filed the above petition. His case is that the petitioner filed a civil suit against the third respondent in O.S.No.139 of 2004 before the learned District Munsif, Thiruvallur and the third respondent filed a civil suit



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against the petitioner and others in O.S.No.514 of 2004 before the learned District Munsif, Thiruvallur. The learned District Munsif, Thiruvallur by a common judgment dated 30.07.2013, allowed the suit filed by the petitioner and dismissed the suit filed by the third respondent. Aggrieved by the said judgment, the third respondent filed an appeal in A.S.No.5 of 2014 and Cross Appeal No.40 of 2013 before the learned Subordinate Judge, Thiruvallur and the same were also dismissed by the lower Appellate Court, against which, the third respondent filed S.A.Nos.691 and 692 of 2017 before this Court and the same were also dismissed by this Court. Thereafter, in gross violation to the Civil Court judgment, the third respondent along with muscle man obstructed the petitioner when he attempted to clear the land and make arrangements for put up a construction. Hence, the petitioner lodged a complaint before the second respondent. On the petitioner's complaint though Deputy Superintendent of Police called third respondent and other obstructors for enquiry, they failed to respond for the enquiry. The respondent police has not taken any action permitting the petitioner to enjoy the property and



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put up a construction, though this Court had rendered a judgment in favour of the petitioner.

3. Learned Additional Public Prosecutor appearing for the respondents 1 and 2 submits that on the complaint of the petitioner, CSR assigned, thereafter, the first respondent conducted an enquiry. The third respondent failed to appear for the enquiry but informed the police that he is taking steps to file an appeal against the order of this Court. Further, in a civil dispute police cannot interfere. The learned counsel for the third respondent appeared before this Court and filed a typed set of papers. In the typed set, Document No.13 is the SLP Diary No.37841 of 2022, which has been preferred by the third respondent against the judgment passed by this Court in Second Appeals. In the appeal filed before the Apex Court, the petitioner along with Ramu, Kumar, Ellamalli and Asha are the respondents therein.

4. Learned counsel for the petitioner submits that now the third respondent producing the diary records of the Hon'ble Apex Court is an



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afterthought that has been done after the petitioner had filed the above petition before this Court. It is stated that diary proceedings is dated 22.11.2022. There is no orders passed against the petitioner.

5. Learned counsel for the third respondent submitted that in this case the disputed place is a Natham Poramboke. The petitioner suppressing the vital facts had obtained orders against the third respondent and attempted to vacate the third respondent using the police. He further submitted that as per Order 21 Rule 35 of C.P.C., the petitioner has to approach the Civil Court and file Execution Petition to execute the decree in his favour.

6. Considering the submissions made and on a perusal of the material it is seen that there has been a civil dispute between the petitioner and third respondent and civil suits are ended in favour of the petitioner. As per the diary proceedings produced, the third respondent filed an appeal before the Hon'ble Apex Court. In view of the same, this Court directs the petitioner to approach the Civil Court to seek his remedy.



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M.NIRMAL KUMAR, J.

rsi

7. With the above direction, this Criminal Original Petition is
disposed of.

27.06.2023

Index : Yes / No

Internet : Yes/No

rsi

To

1.The Deputy Superintendent of Police,
Uthukkottai Sub Division,
Thiruvallur District.

2.The Inspector of Police,
Vengal Police Station,
Thiruvallur District.

3.The Public Prosecutor,
High Court, Madras.

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