



CRL.O.P.No.31699 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.31699 of 2022

Krishnasamy Gounder

... Petitioner

Versus

1. The Superintendent of Police,
Erode District.
2. The Inspector of Police,
Kadathur Police Station,
Erode District.
3. C.Senthil Kumar
4. R.Senkotayan
5. R.Valarmathi
6. K.Kannan
7. C.Anantha Raj
8. C.Palanisamy @ Chinnamani
9. M.Velumani

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to direct the second respondent to provide adequate police protection to protect the petitioner and the official surveyors of land situated in Puthukalaiyanur Village, Sathiyamangalam Taluk, Gobichettipalayam, Erode district comprised in Survey Nos.294/3 & 294/4 to an extent of 4.00 acres from the land grabbers at the time of surveying by measuring the land and fencing the petitioner land.



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For Petitioner : Mr.D.Senthur Kugan
For R1 & R2 : Mr.A.Gokulakrishnan
Additional Public Prosecutor
For R3 to R9 : Mr.S.Sriram, Legal Aid Counsel

ORDER

This Criminal Original Petition has been filed by the petitioner to direct the second respondent to provide adequate police protection to protect the petitioner and the official surveyors of land situated in Puthukalaiyanur Village, Sathiyamangalam Taluk, Gobichettipalayam, Erode district comprised in Survey Nos.294/3 & 294/4 to an extent of 4.00 acres from the land grabbers at the time of surveying by measuring the land and fencing the petitioner land.

2. This Court, on 14.06.2023, had passed the following order:

“Learned counsel for the petitioner submitted that the petitioner owns a land to the extent of 4.00 acres in survey Nos.294/3 and 294/4 situated at Puthukalaiyanur Village, Sathiyamangalam Taluk, Gobichettipalayam, Erode from one Pachayappan and his son Ravi, vide document No.1104/1983 registered on the file of Sub Registrar, Sathiyamangalam. From the date of purchase, the petitioner is in possession and enjoyment of the property and patta also issued in the name of petitioner in patta Nos.378 & 3734. He further submitted that when the petitioner attempted to erect fence in his property to prevent the miscreants, the neighbours of the land, viz., the respondent 3 to 9



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obstructed the petitioner from erecting the fence in his land. Hence, the petitioner has filed a petition before the Taluk Office on 03.11.2022 for the purpose of surveying and measuring the land comprised in survey Nos.294/3 & 294/4 and also preferred an online application for the purpose of survey of the land and paid necessary fee vide challan No.20221103006408, dated 03.11.2022. Thereafter, the petitioner filed Writ Petition before this Court in W.P.No.30548 of 2022 seeking direction to Tahsildar, Sathiyamangalam to survey the land and earmark the said property by metes and bounds through Head Surveyor, Sathiyamangalam Taluk and the Writ Petition was ordered in favour of the petitioner on 17.11.2022. Armed with the order of this Court, the petitioner along with concerned officials had gone to the land, at that time, again the respondents 3 to 9 made their objections. When the officials asked for any document or material to justify the reason for their objection and to substantiate their claim, they failed to produce any documents. Thereafter, the petitioner sent representation on 09.11.2022 to the 2nd respondent Police seeking Police Protection for surveying the land by the revenue officials, for fencing his lands. The 2nd respondent Police failed to take any action despite the petitioner producing all relevant documents including Order of this Court in W.P.No.30548 of 2022.

2.Learned Additional Public Prosecutor seeks time to get instructions.

3.In this case, notice served to the respondents 3 to 9 on 27.12.2022 through the jurisdictional Judicial Magistrate, Gobichettipalayam. The Sub Inspector of Police attached to the 2nd respondent Police Station served the notice and submitted the proof of service. Thereafter, names of respondents 3 to 9 printed in the cause list. Despite the same, there is no representation.

4.In view of the same, this Court appoints Mr.S.Sriram (Enrollment No.2789/2016 & Contact No.95001 11798) as Legal Aid Counsel for the respondents 3 to 9.

5.Learned counsel for the petitioner to serve the copy of the petition and other documents to the newly appointed Legal Aid Counsel for the respondents 3 to 9 by 22.06.2023.

6.Post the matter on 22.06.2023."



3. In continuation and conjunction to the earlier order passed by this Court on 14.06.2023, the Legal Aid Counsel appearing for respondents 3 to 9 submitted that in a batch of Writ Petition Nos.37519 of 2016 etc., this Court had observed that in case of any objection by the adjacent land owners for survey, the same has to be decided only by the Civil Court. In that issue, survey already conducted, report submitted and in the meanwhile, parties were advised to approach the Civil Court and the orders are yet to be passed in the batch case. He further submitted that he is unable to contact the private respondents herein with regard to the objections for surveying the land. Further he was not aware whether there is any objection for surveying the land and any civil suit is pending before the Civil Court or any order has been obtained from the competent Court. Therefore, survey can be conducted, after issuing notice to the private respondents.

4. The learned counsel for the petitioner submitted that in this case, Tahsildar, Sathiyamangalam has already issued notices on 24.03.2023, 19.04.2023 and 02.06.2023 with regard to survey of the land. On receipt of the notices, without any material, the private respondents are objecting for surveying the land. Only for the said reason, this petition has been filed. He



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further submitted that the petitioner is aged about 81 years. The petitioner's representation dated 03.11.2022 with regard to demarcate his property by metes and bounds was not considered and therefore, he filed a writ petition in W.P.No.30548 of 2022 before this Court and the same was ordered on 17.11.2022 with a direction to consider his claim. Thereafter, the Tahsildar, Survey Officials of Revenue Department have initiated proceedings for surveying the land and hence, the petitioner sought for police protection.

5. The learned Additional Public Prosecutor submitted that the Inspector of Police, Kadathur Police Station advised the revenue officials to send notice to the adjacent land owners and thereafter, to provide police protection for survey and ear mark the lands of the petitioner. The Revenue officials have to send notice to the adjacent land owners and thereafter survey has to be conducted.

6. Considering the facts and submissions of the learned counsel appearing on either sides, this Court directs the Tahsildar, Sathiyamangalam to issue notice to the adjacent land owners and thereafter proceed to survey and ear mark the land of the petitioner. If any tangible materials produced by



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the adjacent land owners for objection, the same has to be considered, otherwise the survey should be conducted. The Inspector of Police is directed to provide protection to the public servant namely Tahsildar, Head surveyor and other officials during the survey. If there is any objections raised without any reason, proper action can be taken against the objectors. This exercise of survey and marking of boundaries to be completed within a period of three weeks from the date of receipt of a copy of this order.

7. This Court places its appreciation for the Legal Aid Counsel, who made effective submissions on the records available to defend the respondents 3 to 9.

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

22.06.2023

Index : Yes/No
Internet : Yes/No
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To

1. The Superintendent of Police,
Erode District.
2. The Inspector of Police,
Kadathur Police Station,
Erode District.
3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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