



Crl.O.P.No.31628 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.31628 of 2022

Shanmugasamy

... Petitioner

Vs.

1. The Superintendent of Police,
Office of the District Superintendent Police,
Tiruppur.

2. The Inspector of Police,
Dharapuram Police Station,
Tiruppur – 638 656.

3. C.Periyasamy

...Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the second respondent herein to provide proper Police Protection for the petitioner and his mother residing in R.S.No.155/3 now subdivided into 155/3B1, 155/3A, Kolathupalayam Village, Dharapuram Taluk, Tiruppur District.

For Petitioner : Mr.W.Camyles Gandhi

For R1 and R2 : Mr.S.Santhosh
Government Advocate (Crl.Side)

For R3 : Mr.C.R.Prasanan



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ORDER

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This Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to direct the second respondent herein to provide proper Police Protection for the petitioner and his mother residing in R.S.No.155/3 now subdivided into 155/3B1, 155/3A, Kolathupalayam Village, Dharapuram Taluk, Tiruppur District.

2. The learned counsel for the petitioner submitted that the properties in R.S.Nos.155/1, 155/2, 158/1 (R.S.o.155/3 subdivided into 155/3B1, 155/3A) of Kolathupalayam Village, Dharapuram Taluk, Tiruppur District originally belongs to one Arappakounder, the maternal grandfather of the petitioner. The petitioner's grandfather died on 17.02.2002 and his uncle Veluchamy Kounder died on 10.09.2000. Petitioner's grandfather Arappakounder executed a sale agreement with his son and failed to execute sale deed. One Vadivelu filed a suit in O.S.No.165 of 2001 on the file of Sub Court Dharapuram and a compromise decree was passed. A settlement deed was executed on 15.07.2002. This petitioner, Vadivelu and petitioner's mother were jointly in possession of the aforesaid properties. Petitioner's uncle's wife namely Periyathal filed a suit in O.S.No.1 of 2003 on the file of



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District Munsif Dharapuram, claiming the properties. The said suit was decreed. Petitioner, his mother and Vadivelu filed appeal in A.S.No.28 of 2015 and A.S.No.29 of 2015 on the file of Sub Court, Dharapuram. The appeals were allowed in part. Aggrieved by the said judgment, both side preferred second appeal in S.A.No.607 of 2017 and S.A.No.608 of 2017 before this Court and cross appeal in cross appeal No.87 of 2017 and 88 of 2017 are also pending. Taking advantage of the loneliness of said Periyathal, the third respondent is trying to trespass into the property.

3. On the other hand, the learned counsel for the third respondent submitted that the petitioner came up with the case denying the sale by father-in-law of said Periyathal. They filed counter claim. The said Periyathal resisted the counter claim. The trail Court decreed the suit filed by said Periyathal. The appeal was erroneously allowed. Periyathal obtained interim injunction. The decree was also granted in her favour. There is no application for suspension of injunction. Second appeals as aforesaid are pending. The said Periyathal executed a Will on 17.12.2019 in favour of the third respondent. The Petitioner knew about this Will. The third respondent filed an application to implead him as fifth respondent in second appeal. The



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said Periyathal died on 18.02.2022. Petitioner and his mother are indulging in illegal activities for grabbing the properties even when the said Periyathal was alive. The third respondent is residing at the property. He also gave a complaint dated 04.08.2022 and C.S.R.No.311 of 2022 is pending.

4. Learned Government Advocate (Crl. side) appearing for the first and second respondents submitted that on the basis of complaint given by the third respondent, C.S.R. Enquiry in C.S.R.No. 532 of 2022 was conducted. In the course of enquiry, both the parties appeared and agreed to resolve the dispute amicably. Accordingly, the petition enquiry was closed.

5. From the narration of facts it appears that this dispute is with regard to the title and possession in respect of property in R.S.Nos.155/1, 155/2, 158/1 (R.S.o.155/3 subdivided into 155/3B1, 155/3A). Second appeals and cross appeals as referred above are pending before this Court. In the said circumstances, this Court cannot order Police protection.



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6. Accordingly, this Criminal Original petition is dismissed.

27.01.2023

Index :Yes/No

rap/sma

Neutral Citation Case: Yes/No



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G.CHANDRASEKHARAN, J.

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To

1. The Superintendent of Police,
Office of the District Superintendent Police,
Tiruppur.
2. The Inspector of Police,
Dharapuram Police Station,
Tiruppur – 638 656.
3. The Public Prosecutor,
High Court of Madras.

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