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CRL.O.P.No.32362 of 2022

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.32362 of 2022

V.Bagavathi

... Petitioner

Versus

1. The State of Tamil Nadu,
Rep by the Superintendent of Police,
Ooty,
The Nilagiris District.
2. The Deputy Superintendent of Police,
Gudalur,
The Nilagiris District.
3. The Inspector of Police,
Gudalur,
The Nilagiris District.
4. V.Mohan
Respondents

...

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to direct the third respondent police to give police protection at the house site property of the petitioner having an extent of an extent of 14.75 cents of land comprised in survey numbers (1). 217/20, 217/3A1A2 and 217/3A1C, having patta no.10384, situate in Nathatti, Gudalur - II Village, Gudalur Taluk, Nilagiri district.

For Petitioner : Mr.S.Arunkumar

For R1 to R3 : Mr.A.Gokulakrishnan
Additional Public Prosecutor



For R4

: Mr.S.Yogarajasekar

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ORDER

This Criminal Original Petition has been filed by the petitioner to direct the third respondent police to give police protection at the house site property of the petitioner having extent of 14.75 cents comprised in survey numbers 217/20, 217/3A1A2 and 217/3A1C in patta No.10384, situated at Nanthatti, Gudalur - II Village, Gudalur Taluk, Nilagiri District.

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

"Learned counsel for the petitioner submitted that the petitioner gave a complaint to the 3rd respondent Police on 10.11.2022 stating that on 20.01.2022, he purchased the property of 14.75 cents in survey Nos.217/20, 217/3A1A2 and 217/3A1C from one Balkees and Muhammad K.P. After purchase, he submitted an application to fence and earmark the land and to issue patta. The petitioner's land was surveyed, earmarked and patta has been issued in favour of the petitioner. This being so, the 4th respondent herein created obstructions for taking construction materials to the site and also attempted to encroach upon the property. Earlier, the petitioner gave a complaint on 03.03.2021 and on 01.03.2022 in this regard. The petitioner also filed Civil Suit in C.S.No.25 of 2020 before the learned Additional District Munsif, Cuddalore. Despite the petitioner holding valid title and right over the property, due to the obstructions of the 4th respondent, he is unable to put any construction and enjoy his property. Hence, he has filed the present petition.

2.Learned Additional Public Prosecutor takes notice for



the respondents 1 to 3. On instructions, he submitted that the petitioner as well as the 4th respondent are in possession and enjoyment of their respective properties and there is no dispute between them. The apprehension of encroachment of the property by the 4th respondent is far-fetched. He further submitted that the petitioner given the copy of the complaint to the District Collector which was forwarded to the 3rd respondent Police and the 3rd respondent Police conducted enquiry. During enquiry, it was found that on 09.01.2023, the petitioner's land was surveyed in presence of the Revenue Inspector, Village Administrative Officer and Surveyor, sketch of the land has been drawn and given to the petitioner. Both the parties have admitted that they have no quarrels with regard to their respective lands and a report have been submitted to the Collector on 14.04.2023.

3.Learned counsel for the 4th respondent submitted that the petitioner filed W.P.No.8921 of 2023, in which, he referred to paragraph No.6 and submitted that the petitioner's Civil Suit in C.S.No.25 of 2020 has been dismissed as withdrawn on 09.11.2022. Further referring to paragraph No.10, he submitted that the petitioner admits the revenue authorities surveyed his property and fixed boundaries and issued sketch map for the site and also put up wire fence around the house site. The 4th respondent is removing the wire fence in the petitioner's house site, is without any materials. The 4th respondent is being targeted for the reason that he owns a small portion of adjacent land of the petitioner's site and also have right over the common pathway, which is annoying the petitioner by all means. He further submitted that the 4th respondent filed civil suit in C.S.No.5 of 2023 and obtained injunction order against the petitioner. He seeks small accommodation to file typed set showing original ownership of the 4th respondent and also showing there is no obstruction to the petitioner.

4.At request of the learned counsel for the 4th respondent, post the matter on 22.06.2023."

3. In continuation and conjunction to the earlier order passed by this



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Court on 14.06.2023, the learned counsel appearing for the petitioner today produced the additional typed set of papers showing that the Inspector of Police, Gudalur Circle, issued notice, dated 28.12.2022 calling upon the petitioner to appear for enquiry. The Surveyor issued notice, dated 09.12.2022 calling upon the petitioner to produce documents pertaining to survey Nos.217/20, 217/3A1A2, 217/3A1C. Added to it, the learned counsel produced sketch issued by the Surveyor after survey in the above said survey numbers. Further produced the petitioner's representation, dated 11.01.2023, sent to the District Collector, Revenue and Police officials stating that the fourth respondent and his family members entered into the property and threatened the petitioner.

4.The learned counsel for the fourth respondent filed typed set of papers and submitted that the fourth respondent purchased the property on 26.10.1989 by way of Registered document No.1046 of 1989 to an extent of one cent of land in Survey No.112/1C2; RS.No.217/3. The respondent purchased the property and chitta was issued for the said property. Further joint patta No.1442 was issued in the name 111 persons for Survey No.217. The fourth respondent's name was mentioned in column



No.19. He further submitted that the fourth respondent produced the photographs showing the saloon shop adjacent to the petitioner's building. Further submitted that already, the 4th respondent applied for subdivision of patta in his name on 07.08.2021 before the authorities. Further produced the sale deed of the petitioner's document No.71/2020 wherein boundaries are mentioned as though adjacent land owner in the west side is R.S.No.217/3A1A1A part. The petitioner confirmed that one cent of the property purchased by the fourth respondent. He further submitted that the petitioner earlier filed a Crl.O.P.No.10417 of 2022 wherein this Court on the perusal of the submission of the petitioner as well as Respondent therein passed the following order on 06.06.2022:

"2. Though it is projected as if the petitioner is the owner of house site property and he is in possession of entire extent of 14.75 acres and some third party is interfering with his possession, it appears from the records and also submissions that a civil suit is already pending between the petitioner and the so-called third party in O.S.No.25 of 2020 on the file of District Munsif, Gudalur. Such being the position, blanket order of police protection cannot be granted unless and until the Civil Court decides the right of parties. In such view of the matter, this Criminal original petition is dismissed."

5.Referring the said order, it is mentioned that O.S.No.25 of 2020 is pending before the learned District Munsif, Gudalur. No order to give police protection was granted to the petitioner unless the Civil Court decides the



right of the parties. He further submitted that O.S.No.25 of 2020 has been filed by the petitioner showing the fourth respondent as the defendant which was later withdrawn. The fourth respondent has filed O.S.No.5 of 2022 and also filed an I.A.No.03 of 2023 and obtained injunction order in his favour against the petitioner on 19.01.2023. The petitioner herein filed OS.No.25 of 2020 seeking recovery of possession over the petition schedule property by claiming that she is the owner of property vide document No.71/2020. Further, the Court appointed a Commissioner to inspect the suit schedule property in I.A.No.03 of 2020 and later, O.S.No.25 of 2020 was withdrawn by the petitioner herein. The fourth respondent filed a suit in O.S.No.05/2023 seeking declaration that the fourth respondent is the absolute owner of the suit schedule property and declaring the document No.71 of 2020 as null and void against the petitioner herein. Further, the Civil Court had referring to the documents and boundaries and about the conduct of the petitioner in filing a Civil Suit and after appointment of the Advocate Commissioner, withdrawing the suit found that the petitioner is not coming with the clean hands in O.S.No.25 of 2020. Now the Civil Suit in O.S.No.5 of 2022 is pending. In view of the same, the learned counsel prayed for dismissal of the above petition.



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6.Considering the submissions and on perusal of the materials, it is seen that already there is property dispute in O.S.No.25 of 2020 against the fourth respondent and the same was withdrawn by the petitioner. Now, the fourth respondent has filed in O.S.No.05 of 2022 and obtained the injunction order against the petitioner on 19.01.2023. The petitioner previously not filed Civil Suit, since the suit has already been filed by the fourth Respondent, after filing of the WP.No.8921 of 2023.

7.In view of the above, since the Civil Court order is in favour of the fourth respondent, this Court is not inclined to entertain this petition leaving the petitioner to agitate the same before the Civil Court.

8. Recording the same, this Criminal Original Petition is dismissed.

22.06.2023

Index : Yes/No

Internet : Yes/No

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To

1. The Superintendent of Police,
Ooty,
The Nilagiris District.
2. The Deputy Superintendent of Police,
Gudalur,
The Nilagiris District.
3. The Inspector of Police,
Gudalur,
The Nilagiris District.
4. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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