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CrI.O.P.(MD)No.18980 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:13/12/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

CrI.OP (MD)No.18980 of 2023

Veeraiah : Petitioner

Vs.

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

2.The Inspector of Police,
Kallal Police Station,
Sivagangai District.

3.Muthulakshmi : Respondents

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to issue a direction, directing the respondents 1 and 2 to provide police protection to the life and limb of the petitioner from the 3rd respondent and her henchmen, on the basis of the petitioner's complaint, dated 12/10/2023 and pass such further or other orders.

For Petitioner : Mr.G.Hariharan

For 1st Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.V.Angusamy



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This criminal original petition has been filed seeking direction to the respondent 1 and 2 to provide police protection to the life and limb of the petitioner from the 3rd respondent and her henchmen, on the basis of the petitioner's complaint, dated 12/10/2023.

2.The facts in brief:-

The petitioner is a senior citizen and his father's name is Periyakaruppan. He had three sons namely Veeraiya the petitioner herein, Chinnathambi and Chinnaiya. Chinnathambi and Chinnaiya were died. The petitioner's father was owing property comprised in S.No.466/8 to an extent of 2.34 Hectares (5.77 Acres) through a registered sale deed, dated 31/01/1950. After his demise, the said property was in possession of the petitioner and other two legal heirs by inheritance. Under these circumstances, one Pitchammal and 5 others claimed right over the above said property. The also filed a suit in O.S No.170 of 2006 for partition before the Additional District Munsif Court, Karaikudi. The same was dismissed, on 30/11/2010. Thereafter, the said Pitchammal and Kalyani filed AS No.87 of 2011 before the Sub Court, Devakottai, which was closed, on 29/01/2016. The patta and tax receipts were mutated in the name of the



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petitioner in pursuance of the Proceedings of RDO, Devakottai, dated 05/12/2020. Now in the alleged property, Karuvelam trees are available. On 09/10/2023, when the petitioner tried to remove it, the 3rd respondent, who is not related to the said property prevented the petitioner from removing the Karuvelam trees from his property. When the petitioner questioned about the activities of the 3rd respondent, they told that they wanted 50% of the profit from cutting and selling of the said trees. Thereafter, on 11/10/2023 at about 10.00 am, the petitioner tried to cut down the Karuvelam trees. At that time, the 3rd respondent and her henchman blocked the petitioner from entering the said property and chased away with sticks and also gave life threat to the petitioner. So, on 09/10/2023, the petitioner lodged a complaint to the 2nd respondent, but it was not considered by the 2nd respondent. Thereafter, on 12/10/2023, the petitioner sent his complaint to the respondents 1 and 2 through post. Since no action on the part of the respondents 1 and 2, this writ petition is filed seeking the relief as stated above.

3.Heard both sides.



4.As stated in the preamble portion, the contention of the petitioner is that suit in O.S No.170 of 2006 on the file of the Additional District Munsif, Karaikudi ended in failure, on 30/11/2010. The appeal was also dismissed, on 29/01/2016 by the Sub Court, Devakottai in AS No.87 of 2011. On the strength of the above said decrees, he wants protection to be offered by the police for cutting the Karuvalan trees standing in the property.

5.Now the question arises for consideration is whether for such a purpose, police protection can be ordered.

6.The learned Government Advocate (Criminal side) would submit that enquiry was conducted in pursuance of the representation made by the petitioner, on 09/10/2023. Both sides appeared and the Proceedings before the Revenue Divisional Officer, Devakottai is also pending. In pursuance of the above said proceedings, both sides agreed that they will resolve the issue before the Revenue Divisional Officer. In pursuance of the above said undertaking, it was closed.



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7. But however, the learned counsel appearing for the petitioner would insist that police protection must be granted to remove the Karuvelam trees.

8. Proceedings with regard to patta, it is seen that it is pending before the Revenue Divisional Officer, Devakottai. Reading of the enquiry notice issued by the Revenue Divisional Officer, Devakottai reveals that the 3rd respondent herein gave a petition that the property comprised in survey No.466/8 measuring about 2 Acres standing in the name of some other persons. So, she wants patta standing in the third persons to be cancelled and mutated in her name. What happened, on 13/10/2023 is not clear on record. As stated in the closure report, it is stated that both were willing to resolve the issue in the patta transfer proceedings.

9. The learned counsel appearing for the petitioner is not in a position to inform the court about the patta transfer proceedings. The petitioner has stated in his complaint that his father purchased the property measuring about 5.77 Acres in 1950 comprised in survey No.466/8. The 3rd respondent gave a statement that till the conclusion of the proceedings before the RDO, they will not create any trouble to remove the Karuvelam tress



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standing in the disputed property. Depending upon the RDO proceedings only, both parties can take further action. Suppressing the pendency of the RDO proceedings, this petition has been filed for police protection. It may not be appropriate to the respondents or this court to entertain this petition, in view of the pendency of the patta transfer proceedings.

10.The suit in OS No.170 of 2006 on the file of the Additional District Munsif, Karaikudi was filed by Chinnaya and others. Originally, the suit filed by Pitchan, in his place and his legal heirs was brought on record, wherein Veeraiah, who is the petitioner has shown as the second defendant. It was a suit between the co-shares over the ancestral properties. This petitioner contended before the trial court that it is not the ancestral property of the plaintiffs and the defendants. But his father namely Periyakaruppan purchased the property, on 31/01/1950.

11.As mentioned above, the private respondent is not party in the suit. So the petitioner cannot claim that the suit ended against the 3rd respondent herein. What is relevancy of the civil court decree against the private respondent is a matter for consideration by the RDO.



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12. Along with the typed set of papers, the order passed by RDO, Devakottai, on 05/12/2020 is enclosed. Reading of the order shows that one Chinnathambi, S/o. Periyakaruppan gave a petition that the property was purchased by Periyakaruppan. By mistake, during the settlement period, patta was entered wrongly in the name of Pitchan, Periyakaruppan and Alagu Servai. They have also filed a suit in O.S No.170 of 2006 for partition. That was dismissed. Appeal was also dismissed. But considering the civil court judgment, it was ordered that joint patta be entered in the name of Chinnathambi, Veeraiyah and Chinnaya. It is also clarified that the title over the property can be decided only by the civil court. It appears that against that order, now the matter pending before the RDO, Devakottai.

13. In view of the above said development, as mentioned above, it may not be appropriate, either for the second respondent or this court to order police protection for removal of Karuvelam trees. Let the parties work out their remedy in the pending proceedings before the RDO. Depending upon the proceedings, the parties may work out their remedy in the manner known to law.



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14.In the result, this criminal original petition
stands **dismissed**.

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Index:Yes/No
Internet:Yes/No
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To,

- 1.The Superintendent of Police,
Sivagangai,
Sivagangai District.
- 2.The Inspector of Police,
Kallal Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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