

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.24352 of 2015

1. Hukimchand Jain

2. Mohanlal Jain

Both rep. By Power Agent
Mr. Soman

... Petitioners

Vs

1. State rep. By
Inspector of Police,
C-3, Seven Wells Police Station,
Chennai.

2. The Assistant Commissioner of Police,
Flower Bazaar Range,
Chennai - 600 001

3. The Commissioner of Police,
No.132, Commissioner office Building,
EVK Sampath Road,
Vepery, Chennai - 600 007.

4. Harinarayanan

5. H.Suresh Kumar

6. H.Sathish Kumar

7. H.Venkatesh

8. H.Sujatha

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the first respondent to give police protection while executing the warrant in E.P.No.1024/2006, on the file of the Hon'ble X Assistant Judge, City Civil Court, Chennai in a time bound manner.

For Petitioner : Mr. M.Murali
For respondents 1 to 3 : Mr. C.Emalias,
Additional Public Prosecutor
For respondents 4 to 8 : Mr. M.Baskaran

O R D E R

The present criminal original petition has been filed seeking a direction to the first respondent to give police protection while executing the warrant in E.P.No.1024/2006, on the file of the Hon'ble X Assistant Judge, City Civil Court, Chennai .

2. In the petition, it is stated that the petitioners have filed a suit in O.S.No.1531 of 2000 against one Vijayakumari for delivery of suit property and payment of rental arrears and the same was decreed on 16.03.2002. Aggrieved by the said order, Vijayakumari has filed an appeal in A.S.No.162 of 2003 before this Court along with stay application in C.M.P.No.2764 of 2003. Initially stay was granted in C.M.P.No.2764 of 2003 on condition to deposit the rental arrears. However, the condition imposed in C.M.P.No.2764 of 2003 was not complied and stay was vacated and the C.M.P.No.2764 of 2003 was dismissed accordingly. Subsequently, the said Vijayakumari preferred SLP No.14984 of 2003 before the Hon'ble Supreme Court and the same was also dismissed on 30.08.2006 and thereafter, A.S.No.162 of 2003 was also dismissed for default on 02.02.2012.

3. The Execution Petition, which was filed by the petitioners herein in E.P.No.1024 of 2004 before the X Assistant City Civil Court was allowed on 27.06.2012 and thereby delivery of possession was ordered on 27.08.2012. While executing the warrant, it was informed that the judgement debtor Vijayakumari died on 12.04.2012 and the petitioners impleaded the legal heirs of the deceased, as respondents 4 to 8 in the Execution Proceedings. Since the respondents 4 to 8 did not chose to file counter once again delivery of possession was ordered. Thereafter, the respondents 4 to 8 filed petition to set aside the order along with condone delay petition in E.P.No.1024 of 2004 and the same was allowed. After considering their objection, on 28.10.2014, once again delivery of possession was ordered. Again, on 21.01.2015, fresh delivery was ordered with police protection. Thereafter, whenever the petitioner approached the first respondent, he was not available in the station. Hence, they filed another petition seeking a direction

to the Commissioner of Police to give suitable instruction to the first respondent to extend the police aid to execute the warrant and the same was allowed on 10.03.2015 and again fresh delivery was ordered by 09.04.2015. The petitioner tried all the ways as far as possible, but the petitioner could not able to get police aid for executing the warrant and get the possession of the property. Hence, the petitioner has come up with the present petition.

4. Heard the submissions made by the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondents 1 to 3.

5. Considering the submissions made on either side, this Court is constrained to pass the following order:

***The petitioner is directed to give a fresh representation along with a copy of this order to the first respondent within a period of one week from the date of receipt of a copy of this order. On receipt of such representation, the first respondent is directed to consider the same and to pass positive orders, with regard to providing police protection to execute the warrant in E.P.No.1024 of 2006 on the file of the learned X Assistant Judge, City Civil Court, Chennai, on merits and in accordance with law, within a period of two weeks thereafter.**

6. The criminal original petition is disposed of accordingly.

-s/d-

Assistant Registrar

Dated : 31.12.2015

***Corrected & to be substituted as
per order of this Court dated 30.03.2016
in Crl.O.P.24352 of 2015 made herein.
Sd/-Assistant Registrar(CCC)
Dated : 27.04.2016**

True Copy

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Sub-Assistant Registrar

mrp/srn

To

1. The X Assistant Judge,
City Civil Court, Chennai

To be Substituted

2. The Inspector of Police,
C-3, Seven Wells Police Station,
Chennai.

3. The Assistant Commissioner of Police,
Flower Bazaar Range,
Chennai - 600 001

to the Order

4. The Commissioner of Police,
No.132, Commissioner office Building,
EVK Sampath Road,
Vepery, Chennai - 600 007.

already despatched

5. The Public Prosecutor,
High Court, Madras.

on 08.01.2016

+1 cc to Mr.M.Murali Advocate sr.20746

+1 cc to Mr.M.Baskaran Advocate sr.64344

Crl.O.P.No.24352 of 2015

gr(co)
aa04/01/2016

CA(27.04.2016)

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