

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.04.2015**

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.7212 of 2015

1.K.Kaliaperumal
2.K.Elangovan
3.K.Senguttuvan

.. Petitioners

Vs.

State rep. By

1. The Superintendent of Police
Ariyalur District, Ariyalur

2. The Sub-Inspector of Police
T.Pazhur, Udayarpalayam
Ariyalur District

3. Manokaran

.. Respondent

(R3 has been impleaded as per the order of this Court made in M.P.No.1 of 2015 in
Crl.O.P.No.7212 of 2015 dated 13.04.2015)

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to direct the second respondent to give protection to the petitioners herein to harvest the standing paddy crops in S.No.226/5 extending 2.06 acres of Srinivasapuram Village, T.Pazhur, Udayarpalayam Tk, Ariyalur District.

For Petitioner :: Mr.C.S.Dhanasekaran

For Respondent :: Mr.C.Emalias
Additional Public Prosecutor

ORDER

The petitioner seeks for a direction to the second respondent to give protection to the petitioners herein to harvest the standing paddy crops in S.No.226/5 extending 2.06 acres of Srinivasapuram Village, T.Pazhur, Udayarpalayam Taluk,

Ariyalur District.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor representing the respondents 1 and 2.

3. The learned counsel for the third respondent submits that the crops were sowed by him and that he would be exclusively entitled to harvest the same. It appears that the third respondent had filed O.S.No.379 of 2005 against the petitioners herein, which was decreed in his favour on 07.03.2007. On appeal by the defendants, the decree was partly set aside in A.S.No.140 of 2012 on 23.08.2013.

4. Learned counsel for the petitioner brought to my notice paragraphs 16 and 17 of the finding given by the first appellate Court, which is extracted hereunder:

"16. While such clear documentary evidence is available, the decision of the trial Court finding possession of the plaintiff, without going into the contents of these documents appears to be erroneous. Therefore, the said finding requires interference. Thus it is proved that the plaintiff is in absolute possession of the S.No.226/6 and the plaintiff and the defendants are in possession of the S.No.226/5. Hence it can be decided that the plaintiff is entitled to injunction to one piece of land only namely S.No.226/6. The plaintiff is at liberty to work out his remedies known to law as far as the Survey No.226/5. Hence, this point is answered part in favour of the appellant.

17. In the result the appeal is partly allowed confirming the decree and judgment of the trial Court for the property comprised under S.No.226/6 and the decree and the judgment of the trial Court for the property comprised under S.No.226/5 is hereby set aside. The suit is decreed as prayed for in respect of the Survey No.226/6 only. No costs."

From the above it is seen that as regards S.No.226/5, the first appellate Court has held that both the plaintiff and defendants are in possession.

5. The learned Additional Public Prosecutor submits that the police have addressed Tahsildar, Udayarpalayam to harvest the crop standing in S.No.226/5.

6. This Court is not going into the disputed question of possession as that has to be decided only by the Civil court. The revenue authorities under the Tahsildar, Udayarpalayam is directed to harvest crops in S.No.226/5.

7. The criminal original petition is disposed of with the above direction.

27.04.2015

Index: Yes/No
Internet: Yes/No
gpa

To

1. The Superintendent of Police
Ariyalur District, Ariyalur
2. The Sub-Inspector of Police
T.Pazhur, Udayarpalayam
Ariyalur District
3. The Public Prosecutor
Madras High Court
Chennai

P.N.PRAKASH,J.

gpa

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