

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2016

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

CRP (NPD) No.921 of 2016
and CMP.No.5145 of 2016

1.Veerappan
S/o. Late Maivel

2.Palanisamy
S/o.Sevigounder

.. Petitioners

Vs

Sengodan (died)

.. 1st plaintiff died

Velayutham

.. 3rd plaintiff died

1.Veerappan
S/o.Late Sengodan

2.Madesh
S/o.Late Sengodan

.. Respondents

Prayer:- Civil Revision Petition filed under Section 115 of Civil Procedure Code, praying to set aside the fair and decretal order dated 06.02.2016 passed in R.E.A.No.7 of 2015 in R.E.P.No.29 of 2014 in O.S.No.180 of 1991 on the file of District Munsif Court, Sankari by allowing this Civil Revision Petition.

For Petitioner

:Mr.R.Marudhachalamurthy

ORDER

This Civil Revision Petition has been filed challenging the order passed by the Executing Court granting police protection to the decree holder while executing the decree.

2. The plaintiffs in O.S.No.180 of 1991 are the decree holders. The suit was decreed on 15.04.1998, directing the defendants or their representatives, not to encumber or alienate the suit property.

3. The Execution Petition in R.E.P.No.24 of 1999 was filed by the decree holders and the said E.P. was dismissed on 26.11.1999, based on the undertaking given by the judgment debtors that they will not interfere in suit property.

4. It is alleged that when the decree holders intended to cut the trees standing in the suit property, the judgment debtors with the help of rowdy elements prevented the decree holders from cutting the trees and caused danger to their lives. Hence, the decree holders 1 and 3 has filed an Execution Petition in R.E.P.No.9 of 2009 for contempt of Court, and in that process the first judgment debtor (N.Veerappan) was arrested and detained in the civil prison for violation of decree and judgment passed in O.S.No.180 of 1991.

5. Aggrieved by the order passed in R.E.P.No.9 of 2009, the judgment debtors have filed CRP.No.2938 of 2010 before this Court. An interim release was granted by this Court on 30.08.2010 to the first judgment debtor .

6. It is alleged that thereafter the decree holders filed yet another R.E.P.No.29 of 2014 on the file of District Munsif Court, Sankari, praying to detain the judgment debtors in civil prison for violating the decree and judgment passed in O.S.No.180 of 1991, and the same is pending.

7. It is contended by the judgment debtors that pending consideration of the case before the Executing Court, the decree holders have filed R.E.A.No.7 of 2015, praying to grant police protection to the decree holders to cut the trees standing in the suit property, with a false averment that the judgment debtors are again causing disturbance to the decree holders.

8. The Executing Court held that allowing of R.E.A.No.7 of 2015, will not cause any adverse effect on the judgment debtors, and if really the judgment debtors are not causing any disturbance to the decree holders in dealing with the property, the affording of

police protection cannot cause any prejudice to the judgment debtors proceeding with the suit property. Accordingly, the Executing Court has allowed the R.E.A.No.7 of 2015. Challenging the same, the judgment debtors have filed this Civil Revision Petition.

9. Heard the learned counsel appearing for the revision petitioner.

10. The learned counsel for the revision petitioner/judgment debtor would submit that on prior occasion, when the judgment debtor was residing elsewhere i.e., in a different village, the decree holder has obtained an order against him and with the aid of police protection, the decree holder had foisted a case, with false allegations against the judgment debtor.

11. This apprehension is unfounded. When the police is assisting the decree holder, there is no scope for filing any false case against the judgment debtor with false allegations.

12. The undertaking that the judgment debtor will not interfere in the process of execution is hereby recorded. This undertaking will also afford protection to the judgment debtors.

13. Upholding the order of police protection during the execution of the decree will save both the parties from any harassment from each other.

14. Under such circumstances, the order of police protection cannot be faulted with and the revision is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

23.03.2016

ds

To:
The District Munsif Court
Sankari.

S.VIMALA,J.

ds

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