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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Criminal Original Petition (MD) No.4221 of 2016

Thenmozhi

... Petitioner

Vs.

1.The Inspector General of Police,
Office of the Inspector General of Police,
South Zone,
Madurai.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.

3.The Inspector of Police,
Othakkadai Police Station,
Madurai District.

4.R.Karthick
5.M.Rajendran,
6.Vairam

... Respondents

PRAYER: This petition is filed under Section 482 Cr.P.C to direct the 2nd and 3rd respondents to give proper police protection to the petitioner life, limb and the petitioner entitled residence in Door No.5/97E, Narasingam Village, Ullaganeri, land mark opposite to Madurai Bench of Madras High Court, Othakadai, Madurai District, on the basis of final order passed by the Judicial Magistrate, Melur in DVOP No.19 of 2015, dated 02.02.2016.

For Petitioner	:	Mr.R.Udhayakumar
For Respondents	:	Mrs.S.Prabha for R1 to R3 Mr.R.Anand for R5 & R6

ORDER

For the sake of convenience, the parties will be referred to by their names. Thenmozhi is the wife of Karthick. Rajendran and Vairam are Karthick's parents. On account of matrimonial discord between Thenmozhi and Vairam, proceedings in DVOP was initiated by Thenmozhi in DVOP NO.19 of 2015 before the learned Judicial Magistrate, Melur. The learned Judicial Magistrate, Melur, after hearing both parties, passed the final order permitting Thenmozhi to occupy one portion of the property in Door No.5/97E, Narasingam Village, Ullaganeri, Othakadai, Madurai District, with facilities for toilet, bathroom and



other amenities. He further directed the Inspector of Police, Othakkadai Police Station, Madurai District, to give police protection to Thenmozhi, for implementing the order. When Thenmozhi and her family members went to the house for implementation of the order of the Judicial Magistrate, it appears that some fracas had taken place and complaints were lodged in Othakkadai police Station. Strangely, the Inspector of Police, Othakkadai Police Station, instead of taking steps to implement the judicial order, filed a case in Crime No.99 of 2016 under Section 107 Cr.P.C. by referring the dispute to the Executive Magistrate for adjudication. Under such circumstances, Thenmozhi, approached this Court for a direction under Section 482 Cr.P.C. for police protection and for implementing the judicial Magistrate's order.

2. This Court took a very serious note of the fact that the Inspector of Police, Othakkadai Police Station, instead of implementing the order passed by the learned Judicial Magistrate, Melur, in letter and spirit, had tried to shirk his responsibility by registering a case under 107 Cr.P.C. and trying to pass the buck on to the Tahsildar. It should be remembered that M.Rajendran, the second respondent herein, is a Sub Inspector of Police, and therefore, this Court smelt a rat in the action of the police.

3. This Court directed the Inspector of Police, Othakkadai, Police Station, to implement the order of the learned Judicial Magistrate, Melur, and report before this Court. Today, when the matter was called, Mr.R.Anand, learned counsel appearing for the respondents 5 and 6 strongly contended that property belongs to Vairam, and Thenmozhi has no right of joint house hold therein.

4. Learned Government Advocate, submitted that police have implemented the order of the learned Judicial Magistrate, Melur, in letter and spirit and Thenmozhi has been put in possession of a portion of the property to live decently. The learned counsel for the petitioner also concedes the same.

5. Learned counsel for the respondents 5 and 6 submitted that it was not the police, who put the petitioner in possession, it was some hooligans who have helped the petitioner to put in possession, which is strongly refuted by the learned Government Advocate as well as by the learned counsel for the petitioner.

6. Learned counsel for the respondents 5 and 6 submitted that challenging the order dated 02.02.2016, passed by the learned Judicial Magistrate, Melur, in DVOP No.19 of 2015, Karthick and others have filed an appeal before the learned Sessions Judge, in C.A.No.65 of 2016 and the same is posted for arguments on 18.03.2016 for interim orders.

7. Scope of the prayer in this petition is very limited to the extent of giving police protection and for implementing the judicial order, which has been done. This Court has not given any finding on the merits of the case and it is left to the lower



appellate Court to decide, after analysing the evidence on record. The lower appellate Court is directed to dispose of the said application expeditiously.

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8. Mr.R.Anand, learned counsel appearing for the respondents 5 and 6 submitted that on account of fact that Thenmozhi, is in possession, Karthick and his parents are not able to enter into the house. The learned counsel for the petitioner submits that Thenmozhi has no objection for Karthick and his parents to stay in the house, without causing harm to her. His submissions is placed on record.

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

Sd/-

Assistant Registrar()

/True Copy/

Sub Assistant Registrar

To

- 1.The Inspector General of Police,
Office of the Inspector General of Police,
South Zone, Madurai.
- 2.The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.
- 3.The Inspector of Police,
Othakkadai Police Station,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Udhayakumar, Advocate Sr.No.14184
+1cc to Mr.R.Anand, Advocate Sr.No.14561

akm/16.03.2016/2p-7c/MP/AN/SAR-I

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14.03.2016