



XBEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:22.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.11044 of 2017

WEB COPY

1. Deivanaiammal
 2. S.V.Jeyakumar
- ... Petitioners

-Vs-

1. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
 2. The Inspector of Police,
Karivalam Police Station,
Tirunelveli District.
 3. Jeyalakshmi
- ... Respondents

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to issue a direction directing the respondents 1 and 2 to give adequate police protection to the petitioners' land in Survey No.833 and 845, situated at Karichathan Village, Sankarankovil Taluk, Tirunelveli District, from the third respondent and her henchman.

For Petitioners : Mr.J.Senthil Kumariah

For R-1 & R-2 : Mr.K.Anbarasan,
Government Advocate(Crl. Side).

O R D E R

This Criminal Original petition is filed seeking a direction to the respondents 1 and 2 to give adequate police protection to the petitioners' land in Survey No.833 and 845, situated at Karichathan Village, Sankarankovil Taluk, Tirunelveli District, from the third respondent and her henchman.

2. Heard the learned counsel appearing for the petitioners and the learned Government Advocate(Criminal side) appearing for the respondents 1 and 2.

3. The case of the petitioners is that the first petitioner is the absolute owner of the property in Survey Nos.833 and 845, situated at Karichathan Village, Sankarankovil Taluk, Tirunelveli District. It is the further case of the petitioners that the said



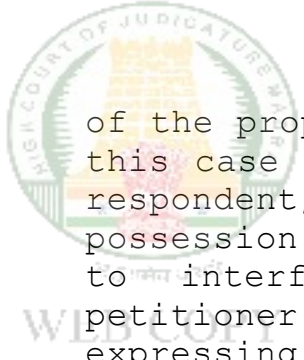
property was transferred in favour of the second petitioner by way of a registered Sale Deed vide document No.186 of 1993. It is also admitted that the father of the first petitioner and the first petitioner earlier had entered an agreement of sale with the third respondent on 06.04.1984 in respect of the same property and agreed to sell the property for a sum of Rs.60,000/-. It was further stated that the father of the first petitioner died on 04.05.1984 and that the first petitioner became the absolute owner of the property. It is admitted that the third respondent filed a suit in O.S.No.205 of 1989 for specific performance of the contract of sale entered into by the first petitioner and his father with the third respondent. It was further stated that the said suit though was decreed as prayed for, in the appeal filed by the first petitioner, the Judgment and Decree of the trial Court was reversed and the said suit in O.S.No.205 of 1989 was dismissed. It was also stated that the Special Leave petition preferred by the third respondent was also dismissed.

4. It is in these circumstances, the petitioners further state that the third respondent and her henchman are creating trouble and trying to stop the petitioners who tried to enter into the property. Alleging that the third respondent is interfering with the petitioners' possession, the petitioners have approached this Court for police protection.

5. This Court carefully considered the case of the petitioners. This Court also found that the first appeal filed by the first petitioner before this Court in A.S.No.228 of 1994, dated 23.08.2013 was allowed and however this Court has observed in paragraph No.40 of the Judgment, as follows:-

"40. Therefore, the respondent/plaintiff is not at all ready and willing to perform her part of contract and also failed to prove the fact that she has sufficient means to pay the balance sale consideration from the date of agreement till the date of filing the suit. In the above said circumstances, the appellant/defendant is not at all entitled to return back the part payment of sale consideration paid by the respondent/plaintiff or avail of Section 53-A to retain the possession of the properties, which she had under the contract in Exs.A1 to A3. But the respondent/plaintiff is entitled to return back the balance consideration amount deposited by her at the time of filing suit and answered point Nos.1 and 2 in favour of the appellant/defendant and as against the respondent/plaintiff."

6. From the reading of the said paragraph, it is evident that the third respondent has claimed to be in possession as a person entitled to retain the possession of the properties in terms of Section 53-A of Specific Relief Act. Though the said claim was negatived and no decree for injunction is granted in favour of the third respondent in the said suit, namely, the third respondent herein, the claim of the third respondent that she was put in possession pursuant to the agreement of sale shows that she is in possession



of the property based on the agreement. Though the petitioners in this case have got a right to recover the property from the third respondent, the claim of the petitioners that they are in possession and that it is only the third respondent who is trying to interfere with their possession and enjoyment of the petitioner's property may not be right. However, without expressing any opinion on merits of the petitioners' case, this Court is of the view that the petitioner is not entitled to any relief in the present proceeding. It is open to the petitioner to seek appropriate relief before the civil forum by filing a suit in the manner known to law.

7. With the above observations, the Criminal Original petition is dismissed.

Sd/-
Assistant Registrar(RTI

/True Copy/

Sub Assistant Registrar

To

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

+1cc to M/S.J.SENTHIL KUMARIAH, Advocate SR.No.73633

pmu
MAS/SKN-RSK/SAR2:29.08.2017:3P-5C

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