



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

Crl.O.P. (MD) No.12812 of 2017

WEB COPY

O.S.K.David

.... Petitioner

Vs.

1.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

2.The Inspector of Police,
Thangachimadam Police Station,
Rameswaram Taluk, Ramanathapuram District.

3.L.Rathinam Respondents

Prayer: Petition is filed under Section 482 of Cr.P.C., to direct the respondents 1 and 2 not to interfere in civil dispute by extending their support to the third respondent to take forcible possession of the properties measuring an extent of 2.50 Acres in S.No.693/20 of Thangachimadam Village, Rameswaram Taluk, Ramnad District by considering the petition dated 23.09.2017, in the absence of any decree for possession in favour of the third respondent.

For petitioner :Mr.T.Pon Ramkumar

For respondents :Mr.A.Ramar

Additional Public Prosecutor
(for R1 and R2)

Mr.S.Mohamed Kadhar (for R3)

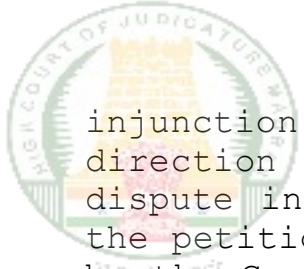
O R D E R

This petition has been filed to direct the respondents 1 and 2 not to interfere in civil dispute by extending their support to the third respondent to take forcible possession of the properties measuring an extent of 2.50 Acres in S.No.693/20 of Thangachimadam Village, Rameswaram Taluk, Ramnad District by considering the petition dated 23.09.2017, in the absence of any decree for possession in favour of the third respondent.

2.Mr.A.Ramar, learned Additional Public Prosecutor takes notice for the respondents 1 and 2 and Mr.S.Mohamed Kadhar, learned counsel takes notice for the 3rd respondent.

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3.The petitioner having proved his possession over the subject matter lands, failed in his attempt to get a decree of permanent

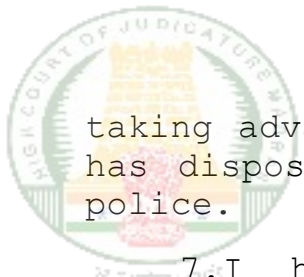


injunction in O.S. No. 32 of 2008, files this petition for direction to prevent the police from interfering with the civil dispute in support of the 3rd respondent. From the averments in the petition, it could be seen that the subject matter lands owned by the Government was occupied by one A.M. Raman somewhere in the year 1975, and that he sold the property to one M.A. Victor Boopala Royar, by virtue of two sale deeds, dated 23.04.1975 and 08.10.1975, and the purchaser sold it to one S. Karuppiyah Konar through a registered sale deed, dated 07.02.1985. From the said S. Karuppiyah Konar, the 3rd respondent purchased the property by way of a sale deed, dated 21.10.1988.

4.The learned counsel for the petitioner submits that the 3rd respondent executed two sale deeds, dated 07.11.1990 for a valid sale consideration to the father of the petitioner and the petitioner's father was in possession and enjoyment of the same till his death. Thereafter, the petitioner is continued to be in possession and enjoyment excluding the 3rd respondent from the year 1990. It is his further submission that the petitioner constructed a small house and also got an E.B. connection, and in support of his possession, he has referred the 'B' memo receipts, electricity bills and house tax payment receipts. The learned counsel further submitted that the petitioner has been enjoying the income from the coconut trees for the past 27 years to the knowledge of the 3rd respondent.

5.It is the further contention of the petitioner that even thereafter, an attempt was made by the 3rd respondent to disturb the petitioner's possession in the year 2008, and in order to protect his possession, he approached the jurisdiction civil Court by filing a suit in O.S. No. 32 of 2008, which was decreed initially and reversed in appeal filed by the 3rd respondent in A.S. No.9 of 2012. It is a matter of record that the petitioner has filed S.A.(MD) No. 317 of 2015 before this Court and obtained an order of interim injunction and also filed direction petitions to prevent the police from interfering with the civil dispute. The learned counsel has submitted that the second appeal was dismissed on 20.09.2017, but, the copy was not made ready.

6.The learned counsel for the petitioner further submits that in earlier occasion, this Court, by order dated 15.04.2015 in Crl.O.P No.6728 of 2015 directed the 2nd respondent not to harass the petitioner. Even thereafter, the 3rd respondent herein on collusion with the officials of the 2nd respondent tried to disposes the petitioner illegally. Hence, he filed a writ petition in W.P.(MD) No.10185 of 2017 before this Court seeking a direction to the respondents not to interfere with the civil dispute and harass the petitioner. By order dated 05.6.2017, this Court was pleased to pass an elaborate order by recording an undertaking given by the respondent police. In the meantime,



taking advantage of dismissal of second appeal, the 3rd respondent has disposed the petitioner with the help of the 2nd respondent police.

7.I have heard Mr.A.Ramar, Additional Public Prosecutor appearing for the respondents 1 and 2 and he reports that they will not harass the petitioner.

8.Admittedly, the subject matter property is a 'Government promboke' which was occupied by one A.M.Raman, who sold the property under two sale deeds to one M.A.Victor Boopala Royar, from whom, the 3rd respondent's vendor S. Karuppiyah Konar had purchased the property. Ultimately, the petitioner and the 3rd respondent are trying to trace their source of title from the initial occupier, namely, A.M. Raman. The fact that 3rd respondent executed two unregistered sale deeds on 07.11.1990 in the name of the petitioner's father, whereupon, the petitioner has been in possession and enjoyment for all these years are not in serious dispute.

9.From the materials available on record, it could be seen that the suit was filed only for permanent injunction by the petitioner against the 3rd respondent. Admittedly, the 3rd respondent has not filed any suit for delivery of possession and has not produced any documents to prove his possession in O.S. No. 32 of 2008. This Court in two occasions gave direction to the 2nd respondent not to interfere in civil disputes in Crl.O.P No.6728 of 2015 and W.P.(MD) No 10185 of 2017. That being the position, it is impermissible for the police to support the 3rd respondent to take possession without the process of law. The learned counsel for the petitioner has cited the judgment of the Hon'ble Supreme Court in **Bondar Singh case** reported in **2003 (4) SCC 161** in support of his submission that an unregistered sale deeds can be used for the purpose of proving his possession. He has also cited the decision of this Court in **R. Mala case** reported in **2007 (3) L.W. 68** to the effect that the police have no power to interfere in civil disputes. I find some force in the submission made by the learned counsel for the petitioner.

10.Notwithstanding the merits and demerits of the claim made by the petitioner and the 3rd respondent, it is not fair on the part of the 2nd respondent police to support the 3rd respondent either to interfere with or to take forcible possession of the subject matter property from the hands of the petitioner. Though there is no legal impediment for the true owner to take possession by following the due process of law, no person is entitled to approach the police to take possession of the immovable property without an order from the competent civil Court.

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11.In **Indian Oil Corporation Vs. NEPC India Ltd.**, reported in **2006 (4) CTC 60**, the Hon'ble Apex Court held as follows:-



"It is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors."

12.This Court, in **Subhiksha Trading Services Ltd.**, case reported in **2010 (4) CTC 324** has followed the said legal position.

13.In the light of the above discussion, this Court is of the view that the respondents 1 and 2 should not interfere with the civil dispute between the petitioner and the 3rd respondent under the guise of supporting the cause of the 3rd respondent to take possession of the subject matter property in dispute, in the absence of any decree for recovery of possession in favour of the 3rd respondent. Accordingly, this petition stands allowed. No costs.

Sd/-
Vacation officer/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

- 1.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.
 - 2.The Inspector of Police,
Thangachimadam Police Station,
Rameswaram Taluk, Ramanathapuram District.
 - 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +1cc to Mr.T.PON RAMKUMAR,Advocate,SR. 81208

Cr1.O.P.(MD)No.12812 of 2017
27.09.2017

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KK/SV MMS/SAR 3/04.10.2017/4P- 5C/