



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.10.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL OP(MD)No.13633 of 2017

K.Govindharaj

... Petitioner

Vs.

1. The Superintendent of Police,
Ramanathapuram District.
2. The Deputy Superintendent of Police,
Paramakudi,
Ramanathapuram District.
3. The Inspector of Police,
Paramakudi Town Police Station,
Paramakudi,
Ramanathapuram District.
4. The Sub Inspector of Police,
Paramakudi Town Police Station,
Paramakudi,
Ramanathapuram District.
5. Malaisamy
6. Malarkodi
7. Prema

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to direct respondents 3 and 4 herein not to interfere into the civil matter while the matter is pending before the learned District Munsif, Paramakudi, in O.S.No.60 of 2016 without any orders of the competent civil Court.

For Petitioner
For R-1 to R-4

: Mr.K.Baalasundharam
: Mr.K.S.Durai Pandiyan,
Additional Public Prosecutor.

O R D E R



which is pending before the learned District Munsif, Paramakudi, in O.S.No.60 of 2016 without any orders of the competent civil Court.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for respondents 1 to 4.

3. The petitioner states that while he served in foreign country, sent money to his brother, namely, the fifth respondent and the fifth respondent purchased some property in his name, even though the property was purchased out of the money sent by the petitioner.

4. It appears that the fifth respondent has executed a Settlement Deed in favour of the wife, namely, the sixth respondent herein. In these circumstances, the petitioner submits that he has approached the civil Court for filing a Suit in O.S.No.60 of 2016, declaring that the Settlement Deed executed by the fifth respondent in favour of the sixth respondent is null and void and for a consequential permanent injunction. It is further stated by the petitioner that the petitioner is in enjoyment of the ground floor portion of the building which is the suit property, and has filed a petition for injunction in I.A.No.176 of 2017 in O.S.No.60 of 2016. The petitioner further states that respondents 5 and 6 herein have preferred a false complaint and that under the guise of enquiry, the fourth respondent has called the petitioner and harassed the petitioner to hand over the possession of the house to the fifth respondent. It is in these circumstances, the petitioner has approached this Court for the relief prayed for.

5. *Prima facie*, this Court is not able to find any merits in the claim of the petition with regard to his title to the property in dispute. The petitioner has not sought for declaration of his title even before the civil Court. This Court is of the view that unless the petitioner seeks amendment to include the prayer for declaration of his title, he may not succeed in the Suit.

6. Be that as it may, the petitioner states even in the application for injunction that he is in enjoyment of a portion of the building in the ground floor. In these circumstances, the petitioner states that he has been harassed to hand over the suit property cannot be true. If the petitioner is in possession of the portion of the premises, he cannot be evicted otherwise than the process of law. The respondent police need not harass the petitioner.

<https://hcservices.courts.gov.in/hcservices/> The learned Additional Public Prosecutor however on instructions submitted that the fifth respondent has given a



complaint against the petitioner, and that the crime alleged to have been committed by the petitioner is for the offences under Sections 341, 324, 323, 427 and 506(ii) I.P.C. It is further stated that the enquiry was only in relation to the criminal complaint and the case has been registered in Crime No.88 of 2017, dated 15.02.2017 and that the investigation is under process. It is in these circumstances, the submission of the learned Additional Public Prosecutor is that the petitioner has come forward with the petition only to precipitate the criminal complaint.

8. This Court is also convinced that there is no *bonafides* in this petition.

9. Having regard to the facts and circumstances of the case, the Criminal Original petition is closed.

10. However, the fourth respondent shall conduct an enquiry only in accordance with law. Even if the appearance of the petitioner is required in connection with the criminal complaint, he can be called only after issuing summons in the manner prescribed in law. If the petitioner is in possession of the portion of the property as alleged by him, the fourth respondent police need not harass to hand over the possession of the property.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To

1. The District Munsif, Paramakudi.
2. The Superintendent of Police, Ramanathapuram District.
3. The Deputy Superintendent of Police,
Paramakudi, Ramanathapuram District.
4. The Inspector of Police,
Paramakudi Town Police Station,
Paramakudi, Ramanathapuram District.
5. The Sub Inspector of Police,
Paramakudi Town Police Station,
paramakudi, Ramanathapuram District.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+One cc to M/s.K.Baalasundharam, Advocate, SR.No.82139

pmu

RL/8C/3P/JC/SAR1/30/10/2017

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