



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P. (MD) No.16271 of 2017

Gurusamy

: Petitioner

-Vs-

1. The Commissioner of Police,
Madurai City, Madurai.
2. The Assistant Commissioner of Police,
Anti Land Grabbing Special Cell,
Madurai City, Madurai.
3. The State represented by
The Inspector of Police (Land Grabbing),
Madurai City, Madurai.
4. S.Thangaiah : Respondents/Complainant

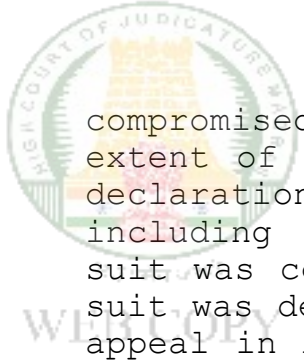
PRAYER: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to direct the second respondent not to interfere in the civil dispute between himself and the fourth respondent in respect of the property in Survey No.1/2-5 situated at Anthanery Kanmai, Hamelt of Tallakulam Village, Madurai District and also discontinue the harassment being made in this regard.

For Petitioner	: Mr.M.Ganesan
For R1 to R3	: Mr.K.S.Duraipandian
	Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed to direct the second respondent not to interfere with the civil dispute between him and the fourth respondent in respect of the property in Survey No.1/2-5 situated at Anthanery Kanmai, Hamelt of Tallakulam Village, Madurai District and also to discontinue the harassment being made in this regard.

2.The petitioner admits that he is arrayed as ninth defendant in the suit in O.S.No.1003 of 2004 on the file of the District Munsif Court, Madurai Town and that the petitioner is the power agent of defendants 1 to 8 in the suit, which was filed by the fourth respondent's father, Mr.Subramanian Asari. It is further stated that the said suit was filed in respect of a vacant land



compromised in S.No.1/2-5 bearing Plot No.25 and 26 measuring total extent of 10 cents. It is also admitted that the said suit is for declaration of permanent injunction as against all the defendants including the petitioner and the subsequent purchasers. The said suit was contested by the defendants 1 to 8. It is stated that the suit was decreed as prayed for and that the defendants preferred an appeal in A.S.No.82 of 2006, which was also dismissed by judgement and decree dated 24.11.2006.

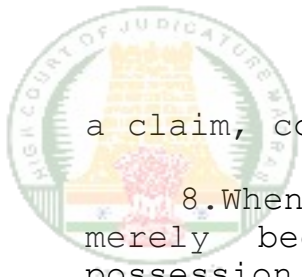
3.The petitioner further stated that possession of the property was not with the plaintiff and that the plaintiff had not asked for recovery of possession as against the petitioner and the subsequent purchasers, who have purchased the properties from the petitioner, who acted only as power of attorney agent of defendants 1 to 8.

4.The petitioner has come forward with this petition, stating that still there is a dispute between him and the fourth respondent. It is further stated that the purchasers have constructed pucca dwelling house after obtaining plan approval from the competent authority and that they were in possession and enjoyment of the property by letting out to tenants.

5.First of all, the petitioner has no *locus standi*. The petitioner himself has stated that he is only a power of attorney agent and sold the property to third parties, when the suit was pending. Secondly, the suit filed by the fourth respondent's father in O.S.No1003 of 2004 for declaration of title and permanent injunction, was decreed as prayed for. The Civil Court has given a categorical finding with regard to the possession and enjoyment of the property by the plaintiff in the suit, namely, the father of the fourth respondent and has therefore granted the relief of permanent injunction to the fourth respondent's father. It is, in these circumstances, the contention of the petitioner that some third parties, who were also defendants in the suit, are in possession and enjoyment over the property, cannot be countenanced for obvious reasons.

6.Assuming that some third parties are in possession, the possession is illegal and contrary to the judgment of the Civil Court. Hence, it is a case of land grabbing, if the petitioner and the subsequent purchasers set up title, contrary to the Civil Court's verdict. Their possession and enjoyment can never be treated as lawful, so as to claim any right.

7.The fourth respondent's father has filed a suit in O.S.No.1003 of 2004 and the subsequent purchasers of the property were also impleaded as parties. All these people have preferred the appeal in A.S.No.82 of 2006 before the Principal Sub Court, Madurai, as against the judgment in O.S.No.1003 of 2004. The appeal was also dismissed by a judgment and decree dated 24.11.2006. The petitioner and other persons, who were parties in the suit, are bound by the judgment and decree of the Civil Court and are estopped from making



a claim, contrary to the judgment and decree.

8. When this suit was filed, the property was a vacant land and merely because the petitioner and other persons have taken possession of the property, subsequent to the judgment and decree of the Trial Court, the petitioner's contention that the dispute is purely civil in nature cannot be accepted. It is definite that the act of the petitioner, in attempting to grab the lands, is illegal and unlawful. The respondent police is directed to initiate appropriate action on the basis of the complaint, if any, lodged by the fourth respondent in this regard. Since the fourth respondent is not heard, the observation made above shall not affect their case on merits. The petitioner has no semblance of any right as a power agent who had executed the sale in favour of others.

9. In view of the above, this Criminal Original Petition is dismissed with a cost of Rs.5,000/- (Rupees five thousand only) to the credit of the Hon'ble Chief Justice Relief Fund, Madurai Bench of Madras High Court, Madurai.

10. Post the matter on 18.12.2017, for reporting compliance.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner of Police,
Madurai City, Madurai.
2. The Assistant Commissioner of Police,
Anti Land Grabbing Special Cell,
Madurai City, Madurai.
3. The Inspector of Police (Land Grabbing),
Madurai City, Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy To:-

The Section Officer, Accounts and Bill Section,
Madurai Bench of Madras High Court, Madurai.

CMR/PNN

TE/SV-MMS/SAR-2 : 18/12/2017 : 3P/6C

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