



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2017

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CORAM:

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

CRL.OP.(MD).No.16617 of 2017

Murugesan . . . Petitioner

Vs.

1. The Superintendent of Police,
Dindigul District.

2. The Deputy Superintendent of Police,
Oddanchatram Division,
Dindigul District.

3. The Inspector of Police,
Idyakottai Police Station,
Dindigul District.

4. Shanmugaraj

5. Rajasekaran

6. Ravichandran . . . Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to direct the respondents 2 and 3 not to interfere in the existing civil dispute between the petitioner and respondents 4 to 6.

For Petitioner
For R-1 to R-3

: Mr.D.Venkatesh
: Mr.K.S.Durai Pandiyan,
Additional Public Prosecutor.

ORDER

This Criminal Original petition is filed for issuing a direction to respondents 2 and 3 not to interfere in the existing civil dispute between the petitioner and respondents 4 to 6.

<https://hcservices.ecourts.gov.in/hcservices/>
2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for respondents 1 to 3.



3.The petitioner is the son of one Pandiyan and he claims that the property in S.No.376/5 measuring an extent of 3087 sq.feet was jointly purchased by the father of the petitioner and the father of respondents 4 to 6 by virtue of a registered sale deed dated 06.07.1961. It is further stated that the brothers purchased the property jointly and that each one of them are enjoying an extent of 1543.5 sq.feet with reference to specific four boundaries. It is admitted that respondents 4 to 6 constructed a new building after the demise of their father. It is further stated that during UDR survey, respondents 4 to 6 obtained an exclusive Patta for the entire extent of property in S.No.376/5 and that the same was rectified by including the names of the petitioner and his family in joint Patta. It is further stated that with an intention to grab the portion of the property, respondents 4 to 6 have created a registered partition deed, dated 16.08.2010 on the basis of the Patta that was standing in the name of respondents 4 to 6.

4.The petitioner further submits that respondents 4 to 6 have also filed a Suit in O.S.No.267 of 2017 before the Subordinate Court, Palani, for declaration and for permanent injunction with regard to the entire extent of the property. It is further stated that respondents 4 to 6 could not obtain any interim order in the Suit for making attempts to disturb the peaceful possession and enjoyment of the petitioner through the third respondent police. It is in these circumstances, it is stated that a direction by this Court to respondents 2 and 3 not interfere with the civil dispute between the petitioner and respondents 4 to 6 will be appropriate and in the interest of justice. .

5.Having regard to the contentious issues with regard to the enjoyment of the property as between the petitioner on the one side and respondents 4 to 6 on the other side, this Court cannot assume possession either in favour of petitioner or in favour of respondents 4 to 6. Though it is admitted that the father of the petitioner and the father of respondents 4 to 6 jointly purchased the property in the year 1961 and that it is stated that both the parties are in joint enjoyment, having regard to the nature of prayer pleaded by respondents 4 to 6 in the Suit in O.S.No.267 of 2017 on the file of the Subordinate Court, Palani, this Court cannot give a direction to the respondent police. The petitioner has also given a representation to the first respondent stating that respondents 4 to 6 are threatening them to vacate the property with the help of police and he also requested the first respondent to take action against the persons who are trying to vacate them from the disputed property.

6.Having regard to the nature of pleading by the respective parties, the civil Court, the petitioner cannot be given any direction which is likely to be interpreted as if this Court has recognized the petitioner's possession as lawful. It is open to



the petitioner to approach the civil Court for appropriate orders, if the possession is proved to be lawful.

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

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Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

pmu

To

1. The Superintendent of Police,
Dindigul District.
2. The Deputy Superintend of Police,
Oddanchatram Division,
Dindigul District.
3. The Inspector of Police,
Idayakottai Police Station,
Dindigul District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 cc to MR.D.VENKATESH, Advocate SR.No.91520

Crl.O.P. (MD) .No.16617 of 2017
05.12.2017

SMA/PM-PN/SAR-4/04.01.2017:3P/6c