



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2017

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

CRL.OP.(MD) No.16798 of 2017

Ramasundaram : Petitioner
Vs.

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

2.The Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.

3.Rajalakshmi : Respondents

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the second respondent police not to harass the petitioner and his family members without due procedure of law.

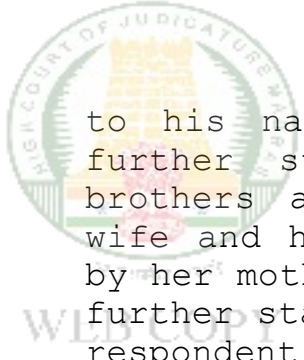
For Petitioner : Mr.R.Pon Karthikeyan
For R1 and R2 : Mr.K.S.Durai Pandian
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to direct the second respondent police not to harass the petitioner and his family members without following the due procedure of law.

2.The petitioner stated that he is the son of the third respondent and that he is residing in a house, which belongs to his father. It is further stated that the petitioner's father expired in the year 2007 leaving behind four sons, four daughters and the petitioner's mother/third respondent herein. It is stated that the petitioner is residing in the back side of the house and other members of the family are residing in front portion of the house. It is further stated that the petitioner and the family members have equal share in the property.

<https://hcservices.courts.gov.in/hcservices/>
3.It is the further case of the petitioner that the petitioner settled at Chennai about five months back and that he moved down



to his native place and started to live in the house. It is further stated that at the instigation of the petitioner's brothers and sisters, a dispute arose between the petitioner's wife and his mother and that the petitioner's wife was assaulted by her mother-in law/the third respondent herein and others. It is further stated that a false complaint has been lodged by the third respondent before the second respondent on 17.11.2017. Pursuant to the complaint, an enquiry was conducted by the second respondent and that the petitioner was threatened and compelled to vacate the property, namely, the house, which originally belongs to his father.

4.It is further stated that the petitioner was harassed and that the petitioner's signature was obtained in a statement by the second respondent police. Hence, the petitioner has come forward with the present petition.

5.The question whether the petitioner as a legal heir, entitled to equal share in the property, namely, the residential house, is a matter for adjudication and it can be adjudicated only by a Civil Court in a suit for partition, filed by anyone of the parties, among the co-owners. It is to be noted that the petitioner himself has admitted that he was residing in the back portion of the house and that he went to Chennai and settled there. It is, under what circumstances, the petitioner still wants to establish his exclusive right, possession and enjoyment over the property is not known. This Court is not able to see any *bona fide* in the petitioner's case and even assuming that the petitioner is a co-owner in respect of the residential house, it is always open to the petitioner to file a suit for partition to establish his rights.

6.It is true that the petitioner has given a complaint to the first respondent requesting to direct the second respondent not to evict the petitioner from the property. In view of the fact that the dispute is purely in respect of the residential house and that the petitioner's possession and enjoyment of portion of property is not known and cannot be presumed in this case, this petition is dismissed with liberty to the petitioner to approach the Civil Court for appropriate relief.

sd/-

Assistant Registrar (CS-II)

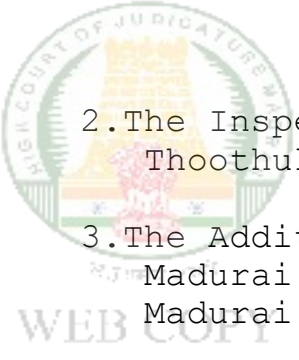
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Sub Assistant Registrar

cmr

To

<https://hcservices.hccourtsonline.in>
The Superintendent of Police,
Thoothukudi District, Thoothukudi.



2.The Inspector of Police, Sathankulam Police Station,
Thoothukudi District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Ponkarthikeyan, Advocate in SR.No. 91581

GJM/CM/SAR-2-4.1.2018-3P-5C

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