



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.07.2017

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

CRL.OP(MD)No.8631 of 2017

WEB COPY

S.H.Najima

... Petitioner

-vs-

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

2. The Inspector of Police, (L & O)
Keelavalavu Police Station,
Melur, Madurai District.

3. Sikkander

... Respondents

Prayer: This Petition filed under Section 482 of Criminal Procedure Code, to issue an order of direction directing the first and second respondents to remove the pathway encroachment of fencing and lock made by the third respondent and to provide adequate police protection at that time of the petitioner entering into her vacant site for build a house and take necessary legal action against the third respondent on the basis of the petitioner's representation, dated 29.06.2017.

For Petitioner : Mr.R.Sundar

For RR 1 and 2 : Mr.K.Anbarasan

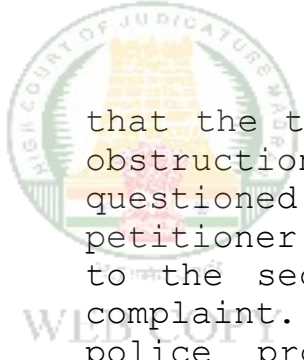
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to issue an order of direction directing the first and second respondents to remove the pathway encroachment of fencing and lock made by the third respondent and to provide adequate police protection at that time of the petitioner entering into her vacant site for building a house and take necessary legal action against the third respondent on the basis of the petitioner's representation, dated 29.06.2017.

2.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondents 1 and 2 and perused the records.

3. Having regard to the facts and circumstances of the case, this case reveals a dispute, which is purely civil in nature. The petitioner states that the petitioner is a owner of the land and on the south side of her land is a common pathway. It is alleged



that the third respondent has blocked the said pathway and caused obstruction in the pathway. It is stated that the same was questioned by the petitioner, but the third respondent scolded the petitioner using filthy language and hence, she gave a complaint to the second respondent and so far no action was taken on the complaint. Hence, the petitioner has come to this Court, seeking police protection. Having regard to the claim made by the petitioner that she is entitled to use the common pathway to reach her house and that the petitioner is using the common pathway for a long number of years, she has to establish her right of easement.

4. Considering the facts and circumstance, this Court is of the view that the petitioner can establish such right only by approaching the Civil Court for a declaration of her right and for consequential relief. In such circumstances, this petition is not maintainable and hence, this Criminal Original Petition is **dismissed** with liberty to the petitioner to approach the Civil Court to work out her remedy in the manner known to law.

Sd/-

Assistant Registrar (Crl.Side)

/True copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Madurai District.
Madurai.
2. The Inspector of Police, (L & O)
Keelavalavu Police Station,
Melur, Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s. R.SUNDAR, Advocate, SR No. 66199

DAS/PJL

PSM/SV/SAR2/28.07.2017/2P/5C

CRL.OP (MD) No.8631 of 2017

18.07.2017