



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD).No.16177 of 2017

Seenivasan

...Petitioner

Vs.

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

2.The Inspector of Police,
Aruppukottai Taluk Police Station,
Aruppukottai,
Virudhunagar District.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 & 2 herein to take action based on petitioner's complaint dated 02.08.2017 and consequently direct the respondents to take appropriate legal action against the illegal act committed by the above said persons.

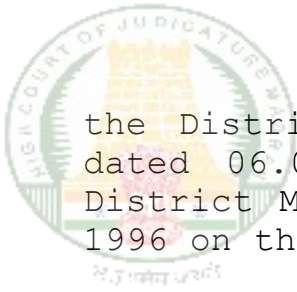
For Petitioner	: Mr.M.Senthil Ayyanar
For Respondents	: A.K.Baskara Pandian Special Government Pleader

O R D E R

This Writ petition has been filed to issue a Writ of Mandamus directing the respondents 1 and 2 to take action on the petitioner's complaint, dated 02.08.2017 and consequently direct the respondents to take appropriate legal action as against the illegal act committed by the persons shown as accused in the complaint.

2.Heard the learned Counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

3.From the representation of the petitioner, it is seen that <https://hdservices.eas.gov.in/hcservices/> pending between the petitioner's father and one Gurusamy Naicker. It is further stated that the petitioner's father succeeded in the suit in O.S.No.207 of 1992 on the file of



the District Munsif Court, Aruppukottai, by judgment and decree dated 06.09.1995. It is also stated that the decree of the District Munsif Court, Aruppukottai was confirmed in A.S.No.97 of 1996 on the file of the learned Subordinate Judge, Virudhunagar.

4. It was further stated by the petitioner in the complaint that the said Gurusamy Naicker has filed an appeal, which is pending in S.A.1954 of 2000 before this Court. The contention of the petitioner in this case is that during the pendency of the Second Appeal before this Court, the said Gurusamy Naicker who is only entitled to a share in the property, has executed a sale deed in favour of his wife's brother by a registered document dated 21.06.2010. The petitioner stated that the sale deed executed by the said Gurusamy Naicker is fraudulent and to cheat the petitioner and to defraud the petitioner. Even assuming that the contention of the petitioner is true sale deed alleged to have been executed by the said Gurusamy Naicker on 21.06.2010 is hit by lis pendense, in view of the section 52 of Transfer the Property Act. During the pendency of suit, there cannot be a transaction in relation to immovable property affecting the right of any parties to the proceedings. The sale as such is not an Act of cheating the petitioner as there is no inducement of petitioner and section 420 of IPC is not attracted.

5. If the petitioner's possession and enjoyment as a co-owner is declared, he is entitled to exercise his right in respect of each portion of the property in dispute. The petitioner is at liberty to approach this Court in the pending Second Appeal to seek a direction to ensure his right as a co-owner. Absolutely, there is no scope for any investigation by the respondent police on the basis of the complaint given by the petitioner. Hence, this Petition is dismissed. No costs. However, liberty is given to the petitioner as indicated above.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub-Assistant Registrar

To

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

2. The Inspector of Police,
Aruppukottai Taluk Police Station,
Aruppukottai, Virudhunagar District.

+One cc to The Special Government Pleader, SR.No.75763
cp/ta