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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2015

CORAM

THE HON'BLE MR.JUSTICE C.T.SELVAM

CRL.O.P.(MD)No.15009 of 2013

and

MP(MD)No.1 & 2 of 2013

1.Seeniammal
2.Anusya Devi
3.Rajesh Kannan

.. Petitioners/Petitioners

.. Vs ..

1.The Sub-Inspector of Police,
District Crime Branch,
(Land Grabbing Special Cello,
Theni District.
In Crime No.12 of 2013.

2.M.Sathaya Devi

.. Respondents

(R2 impleaded as per the order of this Court
dated 28.11.2013 and made in M.P(MD)No.2 of 2013
in Crl.O.P(MD)No.15009 of 2013)

Criminal Original Petition filed under section 482 of the Code of Criminal Procedure, to call for the records relating to the impugned order, dated 26.06.2013 made in Crl.M.P.No.1605 of 2013 on the file of the Principal Sessions Judge, Theni and set aside the same in so far as directing the petitioners not to visit and enter into the disputed property.

For Petitioners : No Appearance

For R-1 : Mr.K.V.Rajarajan
Government Advocate(Crl. Side)

For R-2 : Mr.R.Rajaraman

ORDER

The learned counsel for the petitioners called absent. Heard learned Government Advocate(Crl. Side) for the first respondent and the learned counsel for the second respondent.

2. This Criminal Original Petition challenges the order of the Principal Sessions Judge, Theni passed in Crl.M.P.No.1605 of 2013 on 26.06.2013, in and by which, the petitioners were granted the relief of anticipatory bail subject to certain conditions. Thereafter, the petitioners filed Crl.M.P.No.1890 of 2013, seeking modification of the conditions imposed in Crl.M.P.No.1605 of 2013. Vide order dated 05.02.2015, the learned Principal Sessions Judge, had modified the condition regards the requirement of the petitioners appearing before the respondent police, but had not interfered with the order dated



26.06.2013 requiring the petitioners not to enter into the disputed property.

3. The learned counsel for the second respondent submitted that pursuant to civil proceedings, delivery of the disputed property stands made in favour of the grandmother of the second respondent on 30.12.2002 and the petitioners wrongfully were seeking to interfere with the second respondent's possession.

4. This Court is of the view that in the event of offence of criminal trespass being committed by the petitioners, the same independently would be actionable.

5. It is the contention of the petitioners that having validly purchased property from lawful owners, they have filed a suit in O.S.No.149 of 2012 before the Subordinate Court, Theni to establish their right. It is their contention that an invalid settlement deed wrongfully had been executed in favour of the second respondent.

6. This Court straightaway would delete the condition imposed under orders, dated 26.06.2013 in Crl.M.P.No.1605 of 2013 requiring the petitioners not to enter into the property, finding such condition was one which would cause serious prejudice to the petitioners and aid the opposite party in respect of a matter purely civil in nature.

7. For the aforesaid reasons, this Criminal Original Petition is allowed and the condition imposed on the petitioners vide order, dated 26.06.2013 in Crl.M.P.No.1605 of 2013 requiring the petitioners not to enter into the disputed property, is deleted. It is made clear that this order is not meant to aid the petitioners in the civil dispute over property. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Per Admn.)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Principal Sessions Judge,
Theni.

2.The Sub-Inspector of Police,
District Crime Branch,
(Land Grabbing Special Cell),Theni District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,Madurai.
+1cc to Mr.R.Rajaraman,Advocate SR.No.9929

CRL.O.P. (MD) No.15009 of 2013
and MP (MD) Nos.1 & 2 of 2013
02.03.2015