

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2018

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.26189 of 2018

Pandarinathan

...Petitioner

-Vs-

1.The Superintendent of Police,
Collectrate Campus,
Dharmapuri District,
Dharmapuri.

2.The Inspector of Police,
Morappur Police Station,
Dharamapuri District.

3.Ganesan

4.Vasuki Ganesan

5.Vanitha

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the second respondent to give police protection to the petitioner to take possession and enter into his property based on the proceedings of the Revenue Divisional Officer in O.MU.2014/2016/A2 dated 16.08.2017.

For Petitioner : Mr.P.Rajesh

For RR1 and R2 : Mr.M.Mohamed Riyaz

Additional Public Prosecutor,
High Court, Chennai - 104.

ORDER

This petition has been filed seeking for police protection and for a direction to the respondent police to take possession of the property and hand over the same to the petitioner.

2. The learned counsel for the petitioner would submit that the petitioner filed a suit in O.S.No.52 of 2008 against the respondents 3 to 5 before the District Munsif Court, Pappireddypatty. The suit was filed seeking for the relief of

bare injunction. The suit was decreed by judgment and decree dated 31.08.2009. Aggrieved by the same, the respondents 4 and 5 filed an appeal before the Subordinate Court, Harur and the appeal was also dismissed by judgment dated 24.01.2011.

3. According to the learned counsel for the petitioner, the petitioner is not in a position to enjoy possession of the property. Therefore, a representation has been given before the respondent police seeking for police protection with a request to take possession and hand it over to the petitioner.

4. Admittedly in this case, the petitioner has obtained a decree for bare injunction and there is no decree for possession. Therefore, the execution petition filed by the petitioner in E.P.No.3 of 2013 before the District Munsif Court, Pappireddypatty was also dismissed by an order dated 29.01.2016. The petitioner sought for relief before the police, which cannot even be granted by a Civil Court. When there is no decree for possession in favour of the petitioner, it will not be possible for the police to act upon the decree and take possession of the property from the respondents 3 to 5, and thereafter hand it over to the petitioner.

5. In the considered view of this Court, the relief as sought for in this Criminal Original Petition is not maintainable. The petitioner has to work out the remedy only before the appropriate civil court for the purpose of taking possession of the property from the respondents 3 to 5. The police will have no role to play in a case of this nature. Accordingly, the Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar(CS IV)

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सत्यमेव जयते
Sub Assistant Registrar

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To

1. The Superintendent of Police,
Collectrate Campus,
Dharmapuri District,
Dharmapuri.

2. The Inspector of Police,
Morappur Police Station,
Dharamapuri District.

3.The Additional Public Prosecutor,
High Court,
Chennai.

+1cc to Mr.P.Rajesh, Advocate, S.R.No.77328

CrI.O.P.No.26189 of 2018

VGII(CO)
GSP(06/12/2018)



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