



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2018

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) No.21319 of 2018

and

WMP (MD) .No.19184 of 2018

1.S.Selvam
2.Thenmozhi

... Petitioners

Vs.

1.The Commissioner of Police
Commissioner Office
Madurai City
Madurai

2.The Sub Inspector of Police
City Crime Branch
Commissioner Office
Madurai District

3.Pandimuthu

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, directing the first respondent to take action against the third respondent for conducting Kattapanchayat and consequently direct the 2nd and 3rd respondents not to interfere in the civil dispute except due process of law, based on the petitioner's representation dated 04.10.2018.

For Petitioners

: Mr.M.Subash Babu

For R1 & R2

: Mr.B.Bhagawathi

Government Advocate

ORDER

This writ petition has been filed seeking for a Writ of Mandamus directing the respondent police not to interfere with the civil dispute pending between the parties.

2.The learned counsel appearing for the petitioners would submit that a sale agreement was entered into between the petitioners and one Sudha and an advance amount was also received towards the said sale agreement. However, subsequently the dispute arose between the parties and the sale deed was not executed in favour of the said Sudha, who has given a complaint before the



respondent police.

3.The learned counsel would further submit that the petitioners are willing to repay the advance amount to the agreement holder. However, the agreement holder is not receiving the advance and unnecessarily gave a complaint before the police.

4.The learned Government Advocate would submit that the complaint was entertained by the respondent police only on the ground that the petitioners have not executed the sale deed in favour of defacto complainant in spite of receiving the advance of Rs.9,00,000/-

5.In the considered view of this Court, this is a case which is purely civil in nature. The police ought not to have interfered with this case. The police ought to have relegated the parties to the civil Court in order to agitate their rights. In spite of the petitioners willing to repay the advance amount, if the defacto complainant does not want to receive it, it is for her to approach the appropriate Court and file a suit for specific performance. Instead of that, the defacto complainant has chosen to give complaint before the respondent police.

6.Accordingly, this Writ Petition is allowed. No costs, Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS IV)

msa

To

1.The Commissioner of Police
Commissioner Office
Madurai City, Madurai

2.The Sub Inspector of Police
City Crime Branch
Commissioner Office
Madurai District

1CC TO MR. M. SUBASH BABU, ADVOCATE SR 90442
1CC TO THE SPL GOVT PLEADER SR 90486

DS RSK SAR 4
9 11 2018
2P 5C

W.P. (MD) No.21319 of 2018

11.10.2018