

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2019

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Cr1.O.P.No.2183 of 2019

S.J.Karthikeyan

... Petitioner

Vs.

1.S.J.Kumaresh

2.The Inspector of Police (L & O),
E-1, Mylapore Police Station,
Kutchery Road,
Mylapore,
Chennai-600 004.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, pleaded to pass order for Break open of the Trespassed property and to direct the second respondent to cooperate and provide police protection to the petitioner's while breaking open the Trespass property.

For Petitioner : Mr.S.Shaji Paul

For R2 : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor.

O R D E R

This Criminal Original Petition has been filed seeking for a direction to the respondent police to grant protection to the petitioner to break open the lock and to enable the petitioner to take possession of the property.

2. The relief of this nature can never be granted under Section 482 of Cr.P.C.

3 Admittedly, the suit is pending between the parties in C.S.No.938 of 2016 before this Court. If the rival party has illegally trespassed into the property, the petitioner can always workout his remedy by filing an appropriate application in the pending suit. The police should never be allowed to

interfere in a case of this nature. If the petitioner wants to prosecute against the rival party for criminal trespass, he has to independently pursue the same by giving the complaint and workout his remedy. This remedy should not tantamount to the police getting into an act of breaking open the lock and handover the possession to the petitioner. This is something which can be done only by a competent Civil Court.

4 This Criminal Original Petition is disposed of, with the above liberty granted to the petitioner.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

rpl/mpa

To

- 1.The Inspector of Police (L & O),
E-1, Mylapore Police Station,
Kutchery Road,
Mylapore, Chennai-600 004.
2. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.2183 of 2019

SV(CO)
SSM(19/02/2019)

सत्यमेव जयते

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