

Crl.M.P.No.9678 of 2019 in Crl.O.P No.30088 of 2018

N.ANAND VENKATESH,J.

This petition has been filed to recall the order passed by this Court in Crl.O.P No.30088 of 2019 dated 12.02.2019.

2. The main petition was filed to grant police protection to the petitioner. The orders were passed by this Court without notice to the other side and the respondent police was directed to give police direction to the petitioner.

3. The present petition has been filed by the respondents 2, 3, 5, 6 (in Crl.O.P No.30088 of 2019) to recall the said order on the ground that the petitioner has concealed the fact that there are two subsequent suits that have been filed and pending in O.S No.1378 of 2018 and 138 of 2019 before the Sub Court, Coimbatore. Therefore, in view of the pendency of these suits, the 1st respondent police cannot interfere with the dispute and the petitioner has to work out his remedy only before the Civil Court.

4. The learned counsel for the petitioner submitted that the earlier decree that was passed in O.S.No.63 of 1998 by the District Munsif Court, Palladam for permanent injunction, has become final and the same has not been challenged by the respondents. The learned counsel submitted that since the decree has become final, the respondents do not have the right to interfere with the possession and enjoyment of the property and exert threat on the petitioner.

5. Mr.R.Subbiah, the learned Senior Counsel appearing on behalf of the respondents submitted that the petitioner has obtained an order before this Court by not bringing to the notice of this Court, the subsequent suits that have been filed and pending before the Sub Court, Coimbatore. The learned counsel submitted that the respondents were not put on notice before the final orders were passed in the Criminal Original Petition. Therefore, the orders passed by this Court on 12.02.2019 needs to be recalled.

6. This Court has carefully considered the submissions

made on either side and the materials available on record.

7. Granting of police protection in a case, where a decree has already been passed by the Civil Court, is resorted only in cases, where there is no controversy regarding the right over the property. The petitioner claims that the exparte decree has become final. Under normal circumstances, if there is a violation of the exparte decree, the petitioner has to file an Execution Petition under Order 21 Rule 32 of CPC to punish the judgment-debtor. However, in order to ensure that the decree-holder is not put under threat by the judgment-debtor, in appropriate cases, this Court grants police protection.

8. In this case, there still continues to be a dispute on the right and entitlement over the property and two subsequent suits filed in O.S.No.1378 of 2018 and 138 of 2019 are pending before the Sub Court, Coimbatore. Under such circumstances, this Court is not in a position to grant police protection as sought for by the petitioner. Ultimately, this Court does not want the police to unwittingly get into a civil dispute, which may result in more confusion.

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9. Taking into consideration, the facts and circumstances of the case, liberty is granted to the petitioner to file a petition under Order 21 Rule 32 of CPC before the Execution Court, if there is any violation of the decree that was granted in O.S.No.63 of 1998. By resorting to this procedure, the Execution Court will be in a better position to assess the effect of the decree and come to a conclusion based on the materials placed before it.

10. This Criminal Miscellaneous Petition is disposed of, by granting liberty to the petitioner in the main Criminal Original Petition to work out her remedy in accordance with law.

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02.08.2019

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