

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.18142 of 2019

K.A.Shaik Madar

...Petitioner

Vs.

1. The Inspector of Police,
E-4, Abiramipuram Police Station,
(Law and Order),
Mylapore, Chennai - 600 004.

2.S.Tirupathi

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to direct the 1st respondent to consider the representation dated 25.03.2019 to provide police protection against S.Tirupathi to enforce and execute the warrant in E.P.No.1796 of 2018 on the file of X Assistant City Civil Court, Chennai dated 16.11.2018 within prescribed time in pursuant to the judgment decree passed in O.S.No.7738 of 2012 on the file of the VI Assistant Judge City Civil Court at Chennai.

For Petitioner : Mr.R.John Sathyan

For Respondents: Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed for a direction to the respondent Police to provide police protection in order to enforce and execute the delivery warrant issued by the Execution Court in E.P.No.1796 of 2018.

2. It is seen from the records that the petitioner had filed a suit in O.S.No.7738 of 2012 seeking for a relief of delivery of possession and for permanent injunction against the defendants. The suit was decreed by judgment and decree dated 06.02.2018 and the same has also become final. Thereafter, the petitioner has filed an Execution Petition in E.P.No.1796 of 2018 before the Court below and in the said E.P., the Execution Court ordered delivery of possession with police aid.

3. The learned counsel for the petitioner submitted that inspite of the orders passed by the Execution Court on 16.11.2018, till today the petitioner is not in a position to take possession of the property since there is resistance. Therefore, a representation was also made to the 1st respondent on 25.03.2019 seeking for police protection to take delivery of the property as ordered by the Execution Court. Since no action has been taken, the present petition has been filed before this Court.

4. Heard the learned Additional Public Prosecutor appearing on behalf of the 1st respondent police.

5. It is clear that the petitioner has obtained a valid decree from a competent Civil Court for possession and permanent injunction and the same has also become final. There is also an order of the Execution Court directing delivery of possession with police aid. The delivery is resisted by the persons who are in possession of the property with force and therefore the petitioner is not in a position to enjoy the fruits of the decree till date.

6. In the facts and circumstances of the case, there shall be a direction to the 1st respondent to provide for police protection to the petitioner and the Court bailiff to enforce and execute the warrant issue in E.P.No.1796 of 2018 by the Xth Assistant City Civil Court, Chennai. The 1st respondent police shall ensure that the entire process is carried on peacefully and immediate action is taken against the persons who attempt to take law into their own hands.

7. This Criminal Original Petition is disposed of with the above directions.

s/d-
Assistant Registrar (J)

True Copy

Sub-Assistant Registrar

jas/ssr
To

1. The X Assistant Judge, City Civil Court, Chennai

2. The VI Assistant Judge, City Civil Court, Chennai

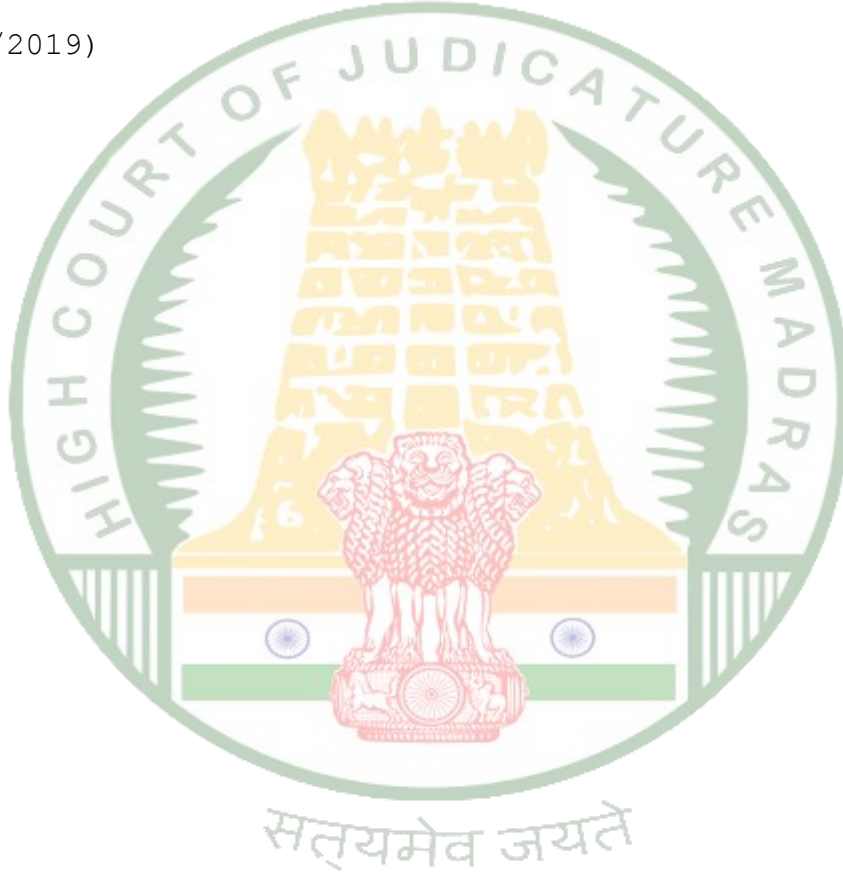
3.The Inspector of Police,
E-4, Abiramipuram Police Station,
(Law and Order),
Mylapore, Chennai - 600 004.

4.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.R.John Sathyan, Advocate sr 57784.

Crl.O.P.No.18142 of 2019

SP(16/07/2019)



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