

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2020

CORAM

THE HONOURABLE MR. JUSTICE T. RAVINDRAN

Cr1.O.P.No. 18358 of 2020

1. Panner
S/o. Chinnapayan
2. Rangan
S/o. Chinnapayan ... Petitioners

Vs.

1. The Superintendent of Police
Dharmapuri District.
2. The Deputy Superintendent of Police
Dharmapuri District.
3. The Inspector of Police
Bommidi Police Station
Dharmapuri District ... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., praying to issue direction directing the respondents and their subordinates not to interfere in civil dispute in respect of the property mentioned in O.S. No.252 of 2010 on the file of the District Munsif cum Judicial Magistrate Court, Pappireddipatti, Dharmapuri District.

For Petitioners : Mr. R. Prabakar

For Respondents : Ms. M. Prabhavathi
Additional Public Prosecutor

ORDER

Complaining that the respondent and their subordinates are interfering in the civil dispute in respect of the property involved in O.S. No.252 of 2010 on the file of the District Munsif cum Judicial Magistrate Court, Pappireddipatti, Dharmapuri District, the petitioners have preferred the Criminal Original Petition seeking for necessary direction.

2. Now according to the petitioners, they have laid the suit in O.S. No.252 of 2010 on the file of the District Munsif cum Judicial Magistrate Court, Pappireddipatti, Dharmapuri District, for declaration and permanent injunction in respect of the property in issue and the said suit ended in their favour. Despite the same, according to them, the respondents, in collusion with the defendants, are attempting to interfere with their possession and enjoyment of the suit property one way or the other. Though they had preferred complaint with reference to the same, no action has been taken against the defendants by the respondent police and hence the need for the filing of the Criminal Original Petition for necessary direction.

3. When according to the case of the petitioners they had obtained the order of permanent injunction against the defendants and only at the instance of the defendants, the respondents are attempting to interfere with their possession and enjoyment, nothing prevented the petitioners from enforcing the decree of injunction obtained by them in the manner known to law against the intruders as per law. No reason has been given by the petitioners as to why they had not chosen to enforce the decree of permanent injunction obtained by them in O.S. No.252 of 2010. In such view of the matter, the grievance of the petitioners that a direction should be given to the respondents as prayed for without enforcing the decree of injunction obtained by them, as such, cannot be countenanced.

4. The claim of the petitioners is that they had preferred complaints against the intruders/defendants in O.S. No.252 of 2010, however, no action has been taken by the respondent police. However, when a query has been raised by this court as to what further action has been taken by the petitioners with reference to same, particularly, whether they had resorted to the guidelines fixed by the Division Bench reported in 2018 2 LW CrI 489 (G. Prabakaran vs. The Superintendent of Police, Thanjavur & Another), the petitioners' counsel has admitted that no further action had been taken by the petitioners. Added further, the petitioners had also not endeavoured to implead the intruders, namely, the defendants in O.S. No.252 of 2010 as party respondents in the Criminal Original Petition. On the other hand, the counsel for the petitioners would state that only at the instance of the defendants, the respondents are interfering with their possession and enjoyment. As above noted, the petitioners should resort to the enforcement of the decree of injunction obtained by them in the manner known to law and without initiating such action, the relief sought for by the petitioners, as such, cannot be countenanced.

5. In the light of the abovesaid factors, when the petitioners had not chosen to enforce the decree of permanent injunction against the intruders in the manner known to law and also not taken further action on the failure of the respondents to initiate action on the complaint preferred by them earlier, the relief sought for by the petitioners, in my considered opinion, is misconceived and, as such, cannot be entertained.

6. In the light for the abovesaid reasons, the Criminal Original Petition is dismissed.

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

bga

Copy To

1. The Superintendent of Police
Dharmapuri District.
2. The Deputy Superintendent of Police
Dharmapuri District.
3. TheInspector of Police
Bommidi Police Station
Dharmapuri District
4. The Public Prosecutor,
High Court, Madras

+1 CC to M/s.R.Prabakar, Advocate on payment of
necessary charges SR.NO.32310

Crl.O.P.No. 18358 of 2020

BR (CO)

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