



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.07.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**

CrI.O.P.[MD]No.7339 of 2020

WEB COPY

P.Jeyarani

... Petitioners

Vs.

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

2.The Inspector of Police,
Koodalpudur Police Station,
Madurai City.

3.C.Thamaraikani

4.Chidambaram

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the respondents No.1 and 2 to provide adequate police protection to take possession of a house of the petitioner by virtue of the Judgment of District Munsif Court, Madurai in O.S.No.44 of 2013 dated 18.11.2016 based on the complaint dated 19.06.2020.

For Petitioners

: Mr.G.Karuppasamy Pandian

For R1 and R2

: Mr.S.Chandrasekar,

Additional Public Prosecutor.

O R D E R

This Criminal Original Petition has been filed by the petitioner seeking a direction to the respondents No.1 and 2 to provide adequate police protection for taking possession of the house of the petitioner.

2.The learned counsel appearing for the petitioner would submit that in earlier by virtue of the sale deed dated 07.12.2012, the petitioner's grandmother namely Muthukani was allotted a house-site in New Plot No.319 and Old Plot No.356 comprised in Survey No.113/1B by the Tamilnadu Slum Clearance Board. Subsequent to that, the said Muthukani executed the gift deed in favour of the petitioner way back in the year 2012 and thereafter a thatched roof house was constructed by the petitioner and the same was let out for rent to the third and fourth respondents. After some time, due to the dispute over the petition mentioned property, the petitioner herein filed a suit against the respondents 3 and 4 in O.S.No.44 of 2013, on the file of the District Munsif Court, Madurai, in which decree



has been granted in favour of the petitioner. He would further submit that though decree was in favour of the petitioner, the respondents 3 and 4 are refused to vacate the petition mentioned property, for which, the petitioner has lodged a complaint before the second respondent police on 19.06.2020, but the second respondent did not take any action and thereby an order of police protection is necessary for taking possession of the house of the petitioner by virtue of the judgment dated 18.11.2016 passed in O.S.No.44 of 2013, on the file of the District Munsif Court, Madurai.

3.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 would submit that since the decree is in favour of the petitioner, the competent forum to provide police protection for taking possession of the suit property is the District Munsif Court, Madurai and instead of approaching the said Court, the relief sought for by the petitioner through this application is bad in law.

4.Upon considering the rival submissions made by either side, it is not in dispute that in respect to the suit property, decree for injunction was granted in favour of the petitioner by the learned District Munsif, Madurai. In otherwise, in respect to the ownership, the learned District Munsif observed in his judgment that the petitioner is the owner of the disputed property by considering the sale deed which stands in the name of the petitioner. In the said circumstances, since the decree is in favour of the petitioner, option is available to him to file the execution petition with the prayer for eviction before the Court which had passed the decree in favour of him. Instead of filing the petition before the Executing Court, approaching this Court, is not necessary

5.In the said circumstances, since the remedy is available before the Court which has granted decree, approaching this Court is bad in law. Accordingly, this Criminal Original Petition is dismissed with a liberty to the petitioner to file an application before the Executing Court under the provision available under Order 21 of C.P.C.

Sd/-

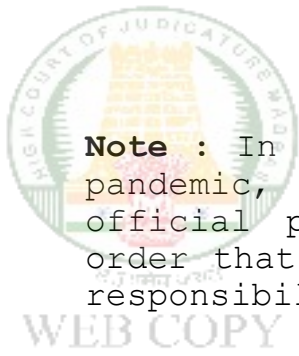
Assistant Registrar (Crl.Side)

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/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Commissioner of Police,
Madurai City,
Madurai.
- 2.The Inspector of Police,
Koodalpudur Police Station,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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AP (30.07.2020) 3P-4C