



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P(MD)No.14847 of 2020

Karikalan

... Petitioner

Vs

1.The Inspector of Police,
Kallal Police Station,
Sivagangai District.

2.Saraswathi
3.Thanajayan
4.Sivagami
5.Dr.A.Ramesh

... Respondents

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to direct the 1st respondent to give protection to remove the fencing and encroachment made by the 5th respondent in the land in Survey No.757/1 Siruvayal Group, Karaikudi Taluk, Sivagangai District, measuring about 1.20.5 Hectares (2 Acres 98 cents).

For Petitioner : Mr.D.Malaichamy

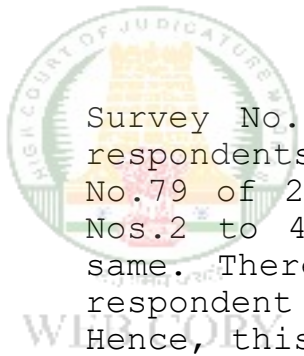
For R1 : Mr.V.Neelakandan,

Additional Public Prosecutor(Crl.Side)

O R D E R

This Criminal Original Petition has been filed to direct the 1st respondent to give protection to remove the fencing and encroachment made by the 5th respondent in the land in Survey No.757/1 Siruvayal Group, Karaikudi Taluk, Sivagangai District, measuring about 1.20.5 Hectares (2 Acres 98 cents).

2. The learned counsel for the petitioner would submit that the 2nd respondent's husband and 3rd and 4th respondent's father filed O.S.No.72 of 1998, before the District Munsif Court, Devakottai, against the petitioner's father Mr.Sethuraman, the petitioner and his brother Mr.Markandan seeking for a declaration that the suit properties belonging to them and for a consequential injunction restraining the petitioner, his father and brother from interfering with his possession and enjoyment of the same. According to the petitioner, the suit was dismissed on 26.08.1999 by the trial Court, against which, the said Rajamarthandan filed A.S.No.43 of 1999 before the Sub Court, Devakottai and the same was allowed on 06.09.2000. Challenging the same, Second Appeal.No.1639 of 2001 was also filed and on 15.02.2002, this Court in C.M.P.No.17387 of 2001 passed an order, directing the parties to maintain Status quo. At this juncture, the respondents 2 to 4 herein have executed a sale deed in favour of the 5th respondent on 16.05.2018 in respect of



Survey No.757/1. Hence, Contempt Petition initiated against these respondents is also pending before this Court in Sub Application No.79 of 2019. The 5th respondent, with the help of the respondent Nos.2 to 4 is about to encroach the said property and fenced the same. Therefore, the petitioner has sent representation to the 1st respondent on 05.08.2020. So far, no action has been taken by them. Hence, this petition.

3.The learned Additional Public Prosecutor appearing on behalf of the 1st respondent, on instructions, would submit that the complaint of the petitioner has been received by the respondent police and the enquiry is pending.

4.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the 1st respondent. In view of the order going to be passed, notice to the respondent Nos.2 to 5 is not necessary.

5.Admittedly, a Civil Suit in O.S.No.72 of 1998 filed by the 2nd respondent's husband and 3rd and 4th respondent's father was dismissed and the appeal filed by the respondents in A.S.No.43 of 1999 was allowed on 06.09.2000, against which, the petitioner has filed S.A.No.1639 of 2001, wherein, the parties were directed to maintain Status quo. When there is an order of Status quo, the petitioner's present petition cannot be maintained. Accordingly, this criminal original petition is dismissed.

Sd/-

Assistant Registrar (AD II)

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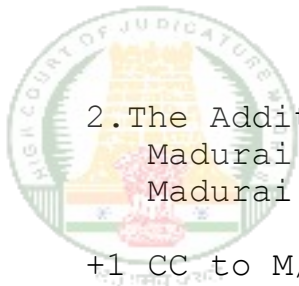
Sub Assistant Registrar(CS)

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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 Inspector of Police,
Kallal Police Station,
Sivagangai District.



2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.D.MALAICHAMY, Advocate (SR-25912[F] dated 17/12/2020)

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16.12.2020

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