



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	23.08.2021
Date of Order	26.10.2021

WEB COPY

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVANCrI.O.P. (MD) No.5985 of 2021

Shivakumar

: Petitioner

Vs.

1.The Executive Magistrate-cum-Thasildhar,
Manamadurai Taluk,
Manamadurai,
Sivagangai District.

2.The Land Surveyor,
Land Survey Department,
Manamadurai Group,
Manamadurai Taluk,
Sivagangai District.

3.The Inspector of Police,
Manamadurai SIPCOT Police Station,
Sivagnagi District.

4..Kalliyappan

: Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to direct the respondents 1 to 3 not to interfere in the civil dispute in the petitioner's house property in Survey No.180/3 and Sub-Division No.180/3A on the file of the Senkulam Village, Seikallathoor Group, Manamadurai Taluk, Sivagangai District.

For Petitioner	: Mr.R.Udayakumar
For R1 to R3	: Mr.R.M.Anbunithi Additional Public Prosecutor
For 4 th Respondent	: Mr.V.A.Dhana Aravindh Balaji For M/s.Dhana Law Associates

O R D E R

This petition is filed seeking for direction to the respondents 1 to 3 not to interfere in the civil dispute of the petitioner's house property comprised in Survey No.180/3 and Sub-Division No.180/3A on the file of the Senkulam Village, Seikallathoor Group, Manamadurai Taluk, Sivagangai District.



2.The case of the petitioner in brief is that he petitioner purchased the property in Survey No.180/3 and 180/3A measuring 4675 sq.feet situated at Senkulam Village, Seikallathoor Group, Manamadurai Taluk, Sivagangai District. Patta was transferred in his name and he was also enjoying the same. The 4th respondent herein purchased the property situated in Survey No.180/3, which was sub-divided into S.No.180/3A to an extent of 2752 sq. feet, which is an adjacent property. But in the year 2012, the 4th respondent again registered the 2nd sale deed and thereby created encumbrance and attempted to grab the property of the petitioner with the help of the respondents 1 to 3. So, on 15.04.2021, the petitioner, for the purpose of measuring the property, submitted a representation and on the basis of the complaint given by the 4th respondent herein, the respondents 1 to 3 are interfering with the civil dispute. Hence, this petition.

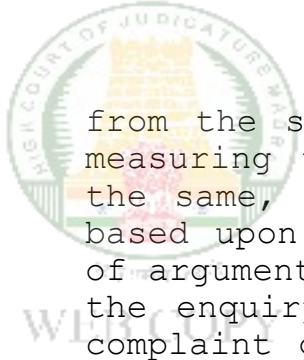
3.Notice was ordered to the 4th respondent and he also entered appearance through Advocate.

4.Heard both sides.

5.Perusal of the records shows that the petitioner as well as the 4th respondent herein purchased the properties from the same owner. The petitioner purchased above said property, as mentioned in the pleadings on 15.12.2012 from one Rajeswari and others, measuring 4675 sq. feet. In the description of the property, four boundaries have been mentioned and the the remaining portion of the property belongs to the vendor, which means the vendor of the property retained northern portion and sold other portions to the 4th respondent as well as to the petitioner. In the same survey field, the 4th respondent purchased 2752 Sq. feet, northern side of the petitioner's house, which means as mentioned earlier, the southern portion was retained by the vendor, while selling the southern portion to the petitioner in the year 2012 and the remaining portion, which was kept by the vendor and another portion has been sold to the 4th respondent to an extent of 2752 sq. feet.

6.From the description of the property mentioned in the sale deeds, it is seen that the house of the petitioner is situated on the southern side and the property of the 4th respondent lies on the northern side. So, it appears that there is a boundary dispute between them.

7.During the course of argument, the learned counsel for the petitioner would submit that the property description is wrong and in the ground, such an extent is not available. For the purpose of resolving this issue, the matter was referred to the Mediation and Conciliation Centre, attached to this Bench, but it could not be settled. It is apparent that boundary dispute between two purchasers



from the same vendor and they can resolve the boundary dispute by measuring the property by proper survey. But without undertaking the same, the 4th respondent appears to have given a complaint and based upon which, enquiry has been conducted and during the course of argument, the learned Additional Public Prosecutor submitted that the enquiry was undertaken in CSR No.212 of 2021, based upon the complaint given by the petitioner. Similarly both the parties also appeared before the Enquiry Officer and gave an undertaking to the effect that they will workout their remedy in the pending civil process and ultimately, on that ground, it came to be closed. The petitioner gave a statement that he entered into an sale agreement in respect of Survey No.180/3A in the year 2018 with one Vetriselvan, who is the real owner. But the 4th respondent claims that he purchased the property from the said person and when he was trying to measure the property, some dispute arose between them. Hence, a petition has been filed undertaking to work out the remedy through civil process.

8.As mentioned earlier, the description of the property, in both the sale deeds clearly shows that the total extent available in survey No.180/3 was 35 cents. So in 35 cents, 4675 sq. feet was purchased by this petitioner and the remaining 2752 sq. feet has been purchased by the 4th respondent. So as mentioned earlier, it is a civil dispute between two parties. Further, the sale deed, which has been referred by the petitioner in the year 2018 is not produced before this court.

9.It appears that that this petitioner claims right over the property, that has been purchased by the 4th respondent on the basis of the alleged sale agreement. Since it is not available before this court, the petitioner can work out his remedy through proper civil process. So, the question of interference by the official respondents 1 to 3 with the connivance of the 4th respondent does not arise. Since it is purely a civil dispute, the enquiry has also been closed by the respondent police. It also appears that without any complaint by the 4th respondent, enquiry has been undertaken only on the basis of the complaint given by this petitioner. So I find absolutely no merit in this petition.

10.With the above direction, this Criminal Original Petition stands dismissed.

Sd/-

Assistant Registrar (AS)

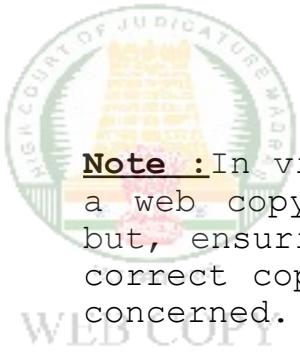
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Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



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 Executive Magistrate-cum-Thasildhar,
Manamadurai Taluk,
Manamadurai,
Sivagangai District.
- 2.The Land Surveyor,
Land Survey Department,
Manamadurai Group,
Manamadurai Taluk,
Sivagangai District.
- 3.The Inspector of Police,
Manamadurai SIPCOT Police Station,
Sivagnagi District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.DHANA LAW ASSOCIATES, Advocate (SR-33072[F] dated 28/10/2021)

Cr1.OP (MD) No.5985 of 2021
26.10.2021

TSK(CO)
KB(22.11.2021) 4P 6C