



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.11576 of 2021

R.S.Senthilkumar

... Petitioner

Vs.

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

2.The Inspector of Police,
South Gate police station,
Madurai District.

3.Muthulakshmi
4.Saravanan
5.Velmurugan
6.Latha
7.Usha

... Respondents

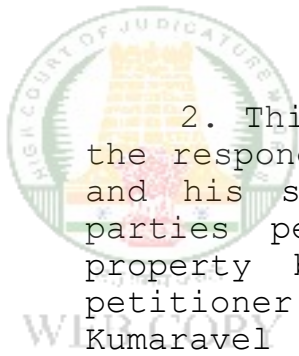
Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to directing respondents 1 and 2 to give police protection for the life and limb of the petitioner and his son, namely, Gokul Kathiravan and also give adequate police protection for the petitioner's property situated at Door No.30, Muthukaruppapillai Santhu, South Veli Street, Madurai - 625 001, based on the representation dated 03.08.2021 within the time frame as fixed by this Court.

For Petitioner	: Mr.C.Ezhilarasu
For R-1 & R-2	: Mr.T.Senthil Kumar, Additional Public Prosecutor.
For R-3 to R-7	: Mr.K.Murugan

* * *

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for respondents 1 and 2 and the learned counsel appearing for respondents 3 to 7.



2. This criminal original petition has been filed for directing the respondent police to grant police protection for the petitioner and his son, namely, Gokul Kathiravan. The dispute between the parties pertains to the petition mentioned property. The said property belongs to one Nagarajan and Kumaravel jointly. The petitioner Senthilkumar is their nephew. Both Nagarajan as well as Kumaravel have passed away. Nagarajan who had 50% share in the property is survived by his wife Dhanalakshmi. Kumaravel before his demise executed a Will conferring life estate on Dhanalakshmi and thereafter the property would devolve on the children of the petitioner herein. Respondents 3, 6 and 7 are said to have purchased the property from Dhanalakshmi vide sale deed dated 28.04.2021.

3. The learned counsel appearing for the private respondents placed reliance on the Will dated 13.08.2015 executed by Thiru.Kumaravel. It is seen that the petitioner and his children are very much residing in the petition mentioned property. Of course as rightly pointed out by the learned counsel appearing for the private respondents, the petitioner R.S.Senthilkumar does not appear to have any title over the property in question. Only his children will get the right over 50% of the property, after the demise of Dhanalakshmi, W/o. Nagarajan. Though this contention of the learned counsel appearing for the private respondents is absolutely correct, the fact remains that there is sufficient material to show that Senthilkumar is very much residing in the petition mentioned property. The petitioner had filed an injunction suit in O.S. No.420 of 2019 on the file of the District Munsif, Madurai Town. The petitioner's wife Muthulakshmi / third respondent herein and the said Dhanalakshmi are shown as defendants. Interim injunction was granted originally and the same was subsequently made absolute. Only thereafter on 28.04.2021, Dhanalakshmi had executed the sale deed in favour of respondents 3, 6 and 7. In other words, the purchase of the private respondents was made when the interim injunction obtained by the petitioner was very much in operation.

4. It is well settled that a person who purchases from a co-sharer will have to work out his rights by filing a partition suit. It is always open to the private respondents herein to ask for eviction of the petitioner also. But then the private respondents cannot resort to any illegal or high-handed methods, particularly, when the order of interim injunction is holding the field. It is alleged by the petitioner that a Will was erected with a view to prevent the petitioner from exercising his right of ingress and egress from the property. Such high-handed actions cannot be permitted. The second respondent must see to it that the interim injunction obtained by the petitioner is enforced. The petitioner must enjoy the fruits of the interim injunction obtained by him in the aforesaid suit. Of course, the order passed by this Court in this criminal original petition will hold good till the rights of the parties are adjudicated by the jurisdictional civil Court. The



5. With this clarification and observation, this criminal original petition is allowed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

05/01/2022

Sub Assistant Registrar(CS)

PMU

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,
Commissioner Office, Madurai City, Madurai District.
- 2.The Inspector of Police,
South Gate police station, Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.K.MURUGAN, Advocate (SR-101[F] dated 04/01/2022)

Crl.O.P.(MD)No.11576 of 2021

03.01.2022

AR (CO)

GC(05.01.2022) 3P 5C