



Crl.O.P.(MD)No.2592 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.02.2024

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

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Ponnammal

... Petitioner

Vs.

1. The Superintendent of Police,
Thanjavur District,
Thanjavur.

2. The Inspector of Police,
Thiruvonnam Police Station,
Orathanadu Taluk,
Thanjavur District.

3. A.Murugan

4. A.Muthu

5. M.Deepa

6. G.Chandra

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to direct the Respondents 1 and 2 herein to provide police protection for fencing the Petitioners property in Survey No. 196/2, 3A & 3C & 194/3, situated at Vettuvakottai Village, Orathanadu Taluk, Thanjavur District, Pursuant to the Judgment and Decree in S.A. (MD)No.516 of 2010 dated 02.11.2021 on the file of this Court and based



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on the complaint dated 02.02.2024 & 08.02.2024.

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For Petitioner : Mr.VS.Kumaraguru

For Respondents : Mr.M.Veeranthiran
Government Advocate (Criminal side)

ORDER

The learned Counsel for the Petitioner submitted that the Petitioner had filed this petitioner seeking direction against the Respondent Police to give police protection for fencing the Petitioner's property in Survey No. 196/2, 3A and 3C and 194/3 sitauted at Vettuvakottai Village, Orathanadu Taluk, Thanjavur District.

2.The learned Counsel for the Petitioner submitted that the Petitioner is a senior citizen, aged about 84 years had filed a suit for specific performance, for permanent injunction and the suit decreed after contest. Aggrieved by the judgment of the learned District Munsif cum Judicial Magistrate, Orathanadu in O.S.No.29 of 2004, the Defendant in the suit had preferred an appeal in A.S.No.25 of 2008 before the learned Sub Judge, Pattukottai. After contest, the appeal also was dismissed. Aggrieved by the



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judgment of the learned Sub Judge, Pattukottai, the Defendant before the learned District Munsif cum Judicial Magistrate, Orathanadu and Appellant before the learned Sub Judge, Pattukottai, had preferred a second appeal in S.A.(MD)No.516 of 2010 before the Hon'ble High Court, Madurai Bench. After hearing the arguments, the Hon'ble Madurai Bench, Madras High Court, dismissed the S.A.(MD)No.516 of 2010 as per the judgment dated 02.11.2021. In the second appeal it observed as under:

"This Second appeal is dismissed. At this stage the plaintiff had fairly stated that the plaintiff would deposit a sum of Rs.4,00,000/- to the credit of O.S.No.29 of 2004 on the file of the District Munsif Cum Judicial Magistrate, Orathanadu within a period of four weeks from the date of receipt of a copy of this order. The appellants will be entitled to withdraw Rs.3,00,000/-. The legal heirs of Veeriyar will be entitle to the remaining amount of Rs.1,00,000/-"

3.In the light of the said observation of the Hon'ble Supreme Court, the learned Counsel for the Petitioner submitted that the Petitioner/Plaintiff before the Trial Court and the Respondent in the Second appeal had deposited Rs.4,00,000/- (Rupees Four Lakh only) on the file of the learned District Munsif cum Judicial Magistrate, Orathanadu in O.S.No.29 of 2004.

It is the further submission of the learned Counsel for the Petitioner that the



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Respondents No. 3 and 4, who had agitated up to the second appeal had knowing fully well about the out come of the Second appeal had executed the sale deed in favour of the respective daughters, who are impleaded in this case as Respondents No.5 and 6. In the execution petition, to execute sale deed in the light of the decree for specific performance had been filed and notice had been served on the judgement debtor. In the meanwhile, the parties to the decree, the judgement debtor, the defendants in the suit, who are the Respondents No.3 and 4 in this petition to defeat their decree had executed sale deed to their respective daughters. Therefore, the Petitioner had preferred a complaint to the Respondent Police. In spite of the complaint given by the Petitioner on 02.02.2024 and 09.02.2024, the Respondent Police had not taken any action.

4.The learned Government Advocate (Criminal side) on instructions from the second Respondent submitted that the Petitioner had only sent representation through registered post to the Superintendent of Police, Thanjavur, alone.

5.The submission of the learned Counsel for the Petitioner is found unacceptable. Considering the fact that the person who had executed a suit and who had agitated her right as a Plaintiff up to the second appeal and the



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Defendant who had lost their cases in the trial Court and could not succeed up to the second appeal are aware of the out come of the second appeal. To defeat the decree, the Defendant in the suit and the appellants up to the second appeal by their conduct attracted the contempt of the Civil Court for which they are liable. Instead of taking action through the very same learned District Munsif cum Judicial Magistrate, Otharathanadu, the learned Counsel for the Petitioner misguided the senior citizen by approaching the Hon'ble High Court under Section 482 of Cr.P.C., when the Civil Court has vast powers particularly as an executing Court. It is a sorry state of affairs considering the Advocate members of the bar without knowing fully the powers of the Civil Court rushing to the High Court just because Madurai Bench is available.

6.The Petitioner is directed to file appropriate petition in the very same trial Court, learned District Munsif cum Judicial Magistrate for violation of the decree of the Civil Court which was upheld up to the second appeal. The submission of the learned Counsel for the Petitioner indicates contempt of the Civil Court by the Respondents 3 to 6.



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7. With the above said observation, this Criminal Original Petition is dismissed.

22.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
jbr

To

1. The Superintendent of Police,
Thanjavur District,
Thanjavur.
2. The Inspector of Police,
Thiruvonnam Police Station,
Orathanadu Taluk,
Thanjavur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.,

jbr

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