



Crl.O.P.(MD) No.22775 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 20.03.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.22775 of 2023

1.M.Rajalingam
2.M.Vairalingam
3.S.Lakshmi

...Petitioners

Vs.

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

2.The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Thirumangalam, Madurai District.

3.The Inspector of Police,
Thirumangalam Taluk Police Station,
Thirumangalam, Madurai District.

4.The Sub-Inspector of Police,
Sindhupatti Police Station,
Usilampatti, Madurai District.

5.Archunan
6.Mani

... Respondents



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PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the respondent police to provide police protection to the petitioners for their agricultural activities on the strength of the civil Court decree in O.S.No.302/1991, dated 28.08.1991, based on the complaint given by the Petitioner, dated 15.09.2023.

For Petitioners : Mr.C.Ezhilarasu
For R1 to R4 : Mr.M.Veeranthiran
Government Advocate (Crl. side)
For R5 : Mr.J.Karthikeyan

ORDER

The learned Counsel for the Petitioners submit that this petition had been filed by the Petitioners seeking police protection on the basis of the compromise arrived in O.S.No.302 of 1991, before the learned District Munsif, Thirumangalam as per judgment and decree, dated 28.08.1991. The Petitioners herein are the legal heirs of the plaintiffs in O.S.No.302/1991. The only defendant in the suit was Perumal Thevar. The decree, which is based on the compromise, as the total extent of the disputed property is 1 acre 53 cents, out of which, as per the compromise arrived between the parties, the defendant has no claim over 1 acre 25 cents, which is in favour



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of the plaintiff Mayathevar and the southern 28 cents is in the possession of sole defendant Perumal Thevar.

2.It is the contention of the learned Counsel appearing for the Petitioners that the Petitioners herein are the legal heirs of Mayathevar, who are the plaintiffs in O.S.No.302 of 1991, on the file of the learned District Munsif, Thirumangalam. In the light of the compromise decree, the Petitioners herein, who are the legal heirs of the plaintiff in O.S.No. 302/1991, seeks police protection to enforce the decree.

3.The learned Counsel appearing for the fifth Respondent objects to the same by stating that the vendor's family was not at all included in the suit in O.S.No.302/1991. It is a collusive decree. After the vendor of the fifth Respondent came to know about the same, he had instituted a suit in O.S.No.18 of 2024, before the Sub Court, Usilampatti.

4.It is the further contention of the learned Counsel appearing for the fifth Respondent that the vendor's family was not at all a party to the proceedings. While so instead of three branches, only one branch was



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included in the suit and it was a collusive decree, which was obtained within 34 days of filing the suit, compromise was arrived. On coming to know about the same, the fifth Respondent had instituted the suit.

5.The learned Counsel appearing for the Petitioners disputed the submission of the learned Counsel appearing for the fifth Respondent by stating that the fifth Respondent had purchased the property beyond the extent in which the vendor's father was in ownership and possession through a sale deed and he seeks interference in the possession of the Petitioners herein, which forced the Petitioner to seek police protection. The further contention of the learned Counsel appearing for the Petitioners is that under Order 23 Rule 3A, no suit is maintainable against the compromise decree. Also he relied on the ruling of the Hon'ble Supreme Court in the case of ***Sree Surya Developers and Promoters Vs. N.Sailesh Prasad and others*** that the suit will not lie against a compromise decree.

6.The learned Counsel appearing for the fifth Respondent also relied on the very same ruling in support of his contention that a compromise decree, which is alleged to have been obtained by fraud and collusion, has



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to be challenged through a civil suit only. He further submit that since the territorial jurisdiction of the village is within Usilampatti Court, he had instituted the suit at Sub Court Usilampatti.

7.Since the contentions raised by both the parties is based on evidences, this Court by exercising the jurisdiction under Section 482 Cr.P.C, cannot go into the merits of the claim of either the Petitioner or the fifth Respondent. Therefore, until otherwise, the dispute between the parties is resolved, the Police protection cannot be granted.

8.With the above observation, this criminal original petition is dismissed.

20.03.2024

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

LR



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1.The Superintendent of Police,
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2.The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Thirumangalam, Madurai District.

3.The Inspector of Police,
Thirumangalam Taluk Police Station,
Thirumangalam, Madurai District.

4.The Sub-Inspector of Police,
Sindhupatti Police Station,
Usilampatti, Madurai District.

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



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