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Crl.M.P.No.13239 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2025

CORAM:

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR

Crl.M.P.No.13239 of 2017
in Crl.O.P.No.9585 of 2016

M.Palanisamy

... Petitioner

Vs.

1. S.Palanisamy
2. The State of Tamil Nadu,
Through the Inspector of Police,
Palladam Police Station, Palladam,
Tirupur.
3. The Superintendent of Police,
Tirupur District, Tirupur.

... Respondents

PRAYER : Criminal Miscellaneous Petition is filed under Section 482 of Criminal Procedure Code, to recall the order passed by this Court in Crl.O.P.No.9585 of 2016 dated 19.01.2017 on the grounds of fraud in obtaining the said order without placing correct and true facts before this Court and also having obtained the same behind the back of this petitioner/3rd respondent in violation of natural justice and through abuse of process of law.



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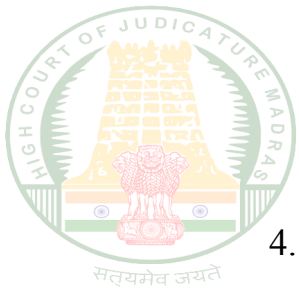
For Petitioner : Mr.S.Nambi Arooran
For R1 : Mr.V.P.Sengottuvel, Senior Counsel
for Mr.P.S.Prabhu
For R2 & R3 : Mr.K.M.D.Muhilan
Additional Public Prosecutor

ORDER

The Criminal Miscellaneous Petition has been filed seeking to recall the order passed by this Court in Crl.O.P.No.9585 of 2016 dated 19.01.2017

2. The petitioner, admittedly, is no more. Therefore, the learned counsel for the petitioner now seeks to implead the legal heirs of the petitioner.

3. Originally, the Criminal Original Petition in Crl.O.P.No.9585 of 2016 had been filed seeking for police protection to measure the property and the same was closed based on the compromise arrived between the parties. However, now the present petition has been filed to recall the order on the ground that the first respondent has misled the court that there is an injunction in respect of 16 feet pathway. However, the subject matter of the suit is only 4 meter.



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4. At the outset, this Court is of the view that this litigation is nothing but an abuse of process of law and the petitioner has given an undertaking before this Court in the contempt petition to measure the property. Admittedly, the respondent has the benefit of decree of permanent injunction in O.S.No.157 of 2007 and that the said decree attained finality with respect to Survey No.451/B to an extent of four meters.

5. In such circumstances, if there is still any encroachment, the respondent is at liberty to file an application to enforce the decree. Upon filing of such application, the trial Court shall proceed against the violators.

6. Accordingly, the Criminal Miscellaneous Petition stands closed.

19.08.2025

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Neutral Citation: Yes/No

To

1. The Superintendent of Police,
Tirupur District, Tirupur.
2. The Inspector of Police,
Palladam Police Station, Palladam,
Tirupur.
3. The Public Prosecutor,
High Court of Madras.

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N. SATHISH KUMAR, J.
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in Crl.O.P.No.9585 of 2016

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