



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2016

CORAM:

THE HONOURABLE Mr.JUSTICE M.VENUGOPAL

Crl.R.C.(MD)No.543 of 2015

S.Sheik Mohammed

... Petitioner/'A'Party

Vs.

1.The Revenue Divisional Officer,
Sivagangai Revenue Division,
Sivagangai.

2.The Inspector of Police,
Manamadurai Police Station,
Manamadurai,
Sivagangai District.

... Respondents 1 & 2

3.Dravida Selvan @ Karuppiyah

... 3rd Respondent/'B'Party

Prayer: Criminal Revision Petition is filed under Section 379 r/w 407 of IPC of Cr.P.C., to call for the records relating to the impugned order passed by the 1st respondent in Ni.Mu.(A2). 4059/2014, dated 14.08.2015 and set aside the same as illegal, arbitrary and has no justification.

For Petitioner : Mr.K.C.Ramalingam

For Respondents : Mr.P.Kannithevan, G.A.(Crl.side) for R1 and 2
Mr.R.Karunanithi for R3

ORDER

The revision petitioner / A party has focused the instant Criminal Revision petition as against the order dated 14.08.2015 in Ne.Mu.(A2) 4059/2014 passed by the 1st respondent.

2.The 1st respondent / Revenue Divisional Officer, Sivagangai while passing the impugned order in Ne.Mu.(A2)4059/2014 dated 14.08.2015 had among other things observed that in the enquiry, the Rajakambeeram Village accounts were examined and it was found that the said account in Survey No.140/1A15 and 140/1A16 had stand in the name of petitioner and that the respondent had not filed any document to show that the aforesaid survey numbers belong to them and hence, the respondent was directed to approach the Civil Court to establish the right in respect of the aforesaid survey numbers. Further, both parties were directed not to create any law and order problem and if any law and order problem crops up, action was ordered to be initiated by the Police and accordingly, the case registered under Section 145 Cr.P.C. in respect of Survey Nos.140/1A15 and 140/1A16 were ordered to be closed. Challenging the order dated 14.08.2015 in Ne.Mu.(A2)4059/2014 passed by the learned Revenue Divisional Officer, Sivagangai, revision petitioner / A party has projected the instant Criminal Revision petition mainly contending that the impugned order dated 14.08.2015 in Ne.Mu.(A2)4059/2014 passed by the 1st respondent / Revenue Divisional Officer is against law, arbitrary and



illegal one and in fact, the same shows non application of mind.

3.The learned counsel for the revision petitioner / A party urges before this Court that the 1st respondent / Revenue Divisional Officer, Sivagangai had failed to appreciate, that a case in Crime No.621 of 2014 was registered under Sections 147, 427 and 447 IPC and in this regard, an FIR was laid against the 3rd respondent and instead of taking action against the 3rd respondent, pursuant to the said FIR, the 1st respondent had passed the impugned order, which is perse incorrect in the eye of law.

4.At this juncture, the learned counsel for the petitioner / A party brings it to the notice of this Court that the petitioner, on earlier occasion filed W.P.(MD)No.9393 of 2014 against the 1st respondent / District Collector, Sivagangai and two others whereby on 16.06.2014 this Court at paragraph 5 had observed the following :

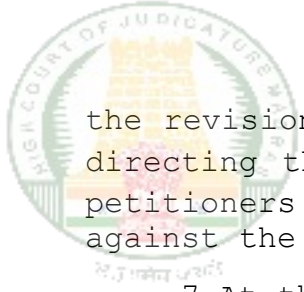
"5.In view of the submissions made on either side, without going into the merits of the matter, this Court directs the second respondent to consider the representation of the petitioner dated 13.06.2012, which was given to measure the property in S.Nos.140/1A15 and 140/1A16 and pass appropriate orders in accordance with law, by affording an opportunity of hearing to all the necessary parties, if any, within a period of eight weeks from the date of receipt of a copy of this order. This Court has not expressed any opinion on the merits of the claim of the Writ petitioner."

and disposed of the Writ petition.

5.Also the learned counsel for the petitioner draws the attention of this Court to the order dated 09.10.2014 in CrI.O.P.(MD)No.18162 of 2014 against the Deputy Superintendent of Police, Manamadurai and two others whereby and whereunder at paragraph 4 this Court had observed the following:

"4.From the above, it is clear that pursuant to the orders of this Court only, notice was issued by the Tahsildar to the petitioner as well as the proposed accused regarding measurement on 16.09.2014. While measurement was taken and the boundary pillars were erected, the same was objected and it was thrown out by the proposed accused. Some photographs have been shown to show erection of pillars and uprooting of pillars. In this regard, the petitioner give a complaint and that he has to be gone into by the Police. The facts narrated above would also indicate that measurement and erection of pillars are sought to be objected by the proposed accused. Therefore, the respondent Police is directed to register the complaint if cognizable offence is made out as per the dictum laid down by the Supreme Court in 2013(4) MLJ (CrI.) 579(SC)."

6.The primordial contention of the petitioner is that the 1st respondent / Revenue Divisional Officer, Sivagangai should have directed the 2nd respondent to take appropriate criminal action against the 3rd respondent, came to a resultant conclusion that a title is in favour of



the revision petitioner and the contra direction issued in this regard by directing the 2nd respondent to take appropriate action against both the petitioners as well as the 3rd respondent is an illegal, arbitrary one and against the ingredients of Section 145 of Cr.P.C.

7. At this stage, the learned counsel for the 3rd respondent refers to the order dated 10.10.2014 in W.P.(MD)No.16641 of 2014 filed by one V.Nagaraj (brother of the 3rd respondent) against the 1st respondent / District Collector, Sivagangai and 2 others whereunder this Court at paragraph 4 had passed the following order:

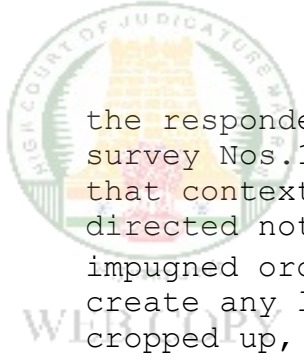
"4. The petitioner is also directed to furnish a copy of the representations dated 04.02.2012 and 25.06.2014 before the respondents within a period of two weeks from the date of receipt of a copy of this order. After receipt of the copies of the said representations, the respondents are directed to take a call in the matter within a time as stated supra by this Court, by affording adequate / necessary opportunities to the petitioner, by adhering to the principles of natural justice."

8. It comes to be known from the aforesaid order passed in W.P.(MD) No.16641 of 2014 dated 10.10.2014 that the petitioner therein (said to be brother of 3rd respondent) had filed the Writ petition seeking a direction to be issued to the respondents therein to cancel the defective patta in S.No.140/1A to an extent of 5 acres 80 cents to restore the original entry of the patta to him based on his representations dated 04.02.2012 and 25.08.2014 respectively.

9. Further-more, the learned counsel for the 3rd respondent proceeds to add that in pursuance of the order passed in the aforesaid W.P.(MD) No.16641 of 2014 dated 10.10.2014 further proceedings are said to be initiated by the revenue authorities concerned.

10. Be that as it may, on a careful consideration of respective contentions and also this Court on going through the impugned order dated 14.08.2015 passed by the 1st respondent / Revenue Divisional Officer is of the considered view that the 1st respondent had categorically observed that in respect of suit survey Nos.140/1A15 and 140/1A16 the village accounts of Rajagambeeram do stand in the name of the revision petitioner (S.Sheik Mohammed) / A party and that the 3rd respondent (said to be B party) had not produced any document to show that the said survey numbers belong to them and as such they were directed to establish their right in this regard before the Civil Court etc. Also that the 1st respondent had only stated in the impugned order that both parties were directed not to create any problem in regard to the dispute in question and that the Police were directed take appropriate action in case both parties create any problem and accordingly, closed the Section 145 of Cr.P.C. Proceedings.

11. In both and substance, the impugned order dated 14.08.2015 in Ne.Mu. (A2)4059/2014 of the 1st respondent only unerringly point out that



the respondent / B party was advised to establish his right in respect of survey Nos.140/1A15 and 140/1A16 by approaching the Civil Court. Only in that context Section 145 of Cr.P.C. proceedings both parties were directed not to create any problem etc. As a matter of fact, the impugned order of the 1st respondent directing both the parties not to create any law and problem and in case any law and order problem being cropped up, lawful action was directed to be taken by the Police cannot by any means, in the considered opinion of this Court give a cause of action right to the revision petitioner / A party to file the present revision petition before this Court. Viewed in that perspective the impugned order dated 14.08.2015 in Ne.Mu.(A2)4059/2014 passed by the 1st respondent / Revenue Divisional Officer is not liable to be interfered with by this Court and resultantly the Criminal Revision petition fails.

12.In the result, the Criminal Revision petition is dismissed. The order dated 10.08.2015 in Ne.Mu.(A2)4059/2014 passed by the 1st respondent / Revenue Divisional Officer, Sivagangai is confirmed by this Court for the reason assigned in this Criminal Revision petition. It is abundantly made clear that the dismissal of the Criminal Revision petition by this Court will not preclude the aggrieved / concerned party / parties to approach the competent Civil Court and to claim appropriate relief if he / they so desires / desires / advised.

Sd/-
Assistant Registrar(P&A)

/True copy/

Sub AssistantRegistrar

To

1.The Revenue Divisional Officer,
Sivagangai Revenue Division,
Sivagangai.

2.The Inspector of Police,
Manamadurai Police Station,
Manamadurai, Sivagangai District.

3.The Additional Public Prosecutor
Madurai Bench of Madras High court, Madurai.

+1cc to Mr.K.C.Ramalingam, Advocate SR.No.4362

+1cc to Mr.R.Karunanidhi, Advocate SR.No.4437

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Cr1.R.C. (MD) No.543 of 2015
25.01.2016