

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2017

Coram

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

CRL. REVISION CASE No.846 of 2017

and

CRL. M.P.No.7832 of 2017

1. Tmt. Dravida Jyothi Radiam

2. M.Arjunan

... Petitioners

Vs.

1. The Sub Divisional Magistrate and
Revenue Divisional Officer,
Perambalur,
Perambalur District.

2. M. Ganesan

... Respondents

Prayer: The Criminal Revision Case has been filed under Section 397 read with 401 of the Code of Criminal Procedure praying to set aside the order passed by the 1st respondent in his proceedings No.Mu.Mu.(A3)/4302/2016 dated 02.06.2017 and allow the above Criminal Revisional Case.

For Petitioner

:

Mr.V.Sivalingam

For Respondents

:

Mr.R.Sekar,
Govt. Advocate (Crl side) for R1
Mr.T.Seenivasan for R2

* * * *

ORDER

This Criminal Revision case has been filed against the order passed by the 1st respondent in his proceedings No.Mu.Mu.(A3)/4302/2016 dated 02.06.2017 under section 145 of the Criminal Procedure Code (in short, 'the code'). The plea raised by the petitioners is that there was no common pathway in Survey No.140/17A at Perambalur, Perambalur Taluk and District, however it was declared by the 1st respondent that from the sale deed produced by the second respondent, it is evident that the pathway was already existing.

2. In regard to the claim and counter claim between the parties, there was a complaint and counter complaint before the concerned police who registered a case under section 145 of Cr.P.C. on 19.10.2016.

3. Since the parties have claimed right over a property (pathway) and the same could not be resolved by the police, the same had been referred to the first respondent by invoking section 145 of the code. Pursuant to the said reference, notice was issued to the parties by the first respondent. Pursuant to notice, they had appeared before the first respondent and had given their respective claim for the disputed property.

4. After hearing both parties i.e. the petitioners as well as second

respondent, the first respondent has ultimately concluded through the impugned order dated 02.06.2017, that there is a pathway at S.No.140/17A at Perambalur, Perambalur Taluk and District.

5. Aggrieved over the said order passed by the first respondent dated 02.06.2017, the present revision has been filed.

6. I have heard the learned counsel appearing for the parties and the learned Government Advocate appearing for the first respondent.

7. It is brought to the notice of this Court by the learned counsel for the petitioners as well as the second respondent that both the petitioners and the second respondent were treated as A party and B Party respectively. They had already approached the competent civil court i.e. District Munsif Court, Perambalur by filing a Civil Suit, to resolve the issue.

8. According to them, the second respondent has filed C.S.No.220 of 2016 on the file of the District Munsif Court, Perambalur wherein he has sought for a decree for permanent injunction against the petitioners. Likewise the first petitioner had also filed a suit in O.S.No.263 of 2016, before the said District Munsif Court where also the first petitioner has prayed for a decree of prohibitory injunction against the second respondent.

9. It seems that both suits are pending adjudication before the Court below. It is a right approach on the part of both parties to approach the civil court to get decrees pertaining to the disputed land where the parties claimed that pathway is there or otherwise.

10. Till such decision is, arrived at by a competent civil court, only as an interim measure, in order to maintain law and order as well as peace and tranquility in that locality, the first respondent, has invoked Section 145 of the Code and has passed the impugned order.

11. Though in the impugned order, at the operative portion, the first respondent has stated that there is a pathway at S.No.140/17A, the said observation can only be treated as an interim measure until a civil court delivers its verdict in the suits, that have been already filed by the parties.

12. In the said circumstances, this court is of the view that both parties can pursue the suits that have been filed before the court below to establish their rights.

13. Till a decision is taken by the civil court in the suits, filed by the parties, the present order passed, which is impugned herein, by the first

respondent, shall be treated as an interim measure, based on which present status quo shall be maintained by both parties.

14. This Court expects that the suit filed by the parties can be tried together and a decision can be rendered therein at the earliest possible time.

15. With these observations and directions this Criminal Revision Case is disposed of. Consequently, connected miscellaneous petition is closed.

28.07.2017

Index:Yes/No
Internet:Yes/No

rli

To

The Sub Divisional Magistrate and
Revenue Divisional Officer,
Perambalur,
Perambalur District.



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R.SURESH KUMAR, J.

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