

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1001 of 2016

and

Crl.M.P.No.8039 of 2016

M.Balaji ... Petitioner

vs.

1.The Sub Collector and
Sub Divisional Magistrate,
Mettur Taluk,
Salem District.

2.The Inspector of Police,
Deevattipatti Police Station,
Salem District.

3.Maheswari
W/o.Raja ... Respondents

Criminal Revision filed under Section 397 and 401 Cr.P.C.
against the order of first respondent passed in Na.Ka.No.3264 of
2015 dated 08.07.2016.

For Petitioner : Mr.P.Vijendran

For Respondent : Mr.M.Mohammed Riyaz,
Government Advocate [Crl.side][R1 & R2]
Mr.G.Surya Narayanan [R3]

O R D E R

This revision arises against the order of first respondent
passed in Na.Ka.No.3264 of 2015 dated 08.07.2016.

2. Heard learned counsel for petitioner, learned Government
Advocate [Crl.side] for respondents 1 and 2 and learned counsel
for third respondent.

3. Learned counsel for petitioner submits that initiation of 145 proceedings in the case was pursuant to the registration of case in Crime No.483 of 2015 on 31.08.2015 by the second respondent who informed that there was possibility of dispute between two rival communities which could be detrimental to public peace. First respondent had erred in passing an order finding that 'A' party had been in possession of the property in question, they holding due documents of title thereto and that it was the petitioner/'B' party who illegally trespassed into the property and dispossessed third respondent/'A' party. First respondent erred in directing possession of property in the hands of third respondent/'A' party after removal of encroachments put up by petitioner. Learned counsel submits that once parties are before Civil Court, the first respondent/Executive Magistrate ought to have left the matter to the decision of such Court.

4. Learned counsel for third respondent submits that the original owner of the property was one Kuppan. The property having been inherited by his son Lakshmanan @ Sungan, he and his sons had effected sale thereof in favour of third respondent/'A' party under a deed of sale dated 07.02.1997. Along with his siblings and father, one Madurai s/o.Lakshmanan @ Sungan was also an executant of such sale deed. The proceedings of the first respondent in Na.Ka.No.3264 of 2015 stood finally adjourned to 24.12.2015. It was only thereafter that the petitioner party had preferred suit in O.S.No.79 of 2016 on the file of District Munsif, Omalur, seeking a declaration that the sale deed in favour of the third respondent was void and a further sale deed executed by her under document registered in No.2680 of 2005 on the file of Sub-Registrar, Omalur, on 04.07.2005 was also void. Plaintiffs therein had also sought relief of partition, permanent injunction as also mandatory injunction to authorities towards alteration of revenue records. Plaintiffs in the suit as also the petitioner were the sons and daughter of Madurai. 'A' party not having challenged the sale deed of the year 1997, had resorted to the ruse of filing a suit after the final hearing date in the 145 proceedings on 24.12.2015 merely towards avoiding an adverse order and towards perpetuating encroachment of property towards using the same for a toddy shop. First respondent rightly had recognized such position and directed removal of encroachment put up by petitioners and restored possession in the hands of the third respondent.

5. On consideration of rival submissions, this Court would accept the submission of learned counsel for third respondent. A reading of the order under challenge and perusal of the papers make clear that it is only towards avoiding an adverse order under section 145 Cr.P.C. being passed by first respondent, the suit in O.S.No.79 of 2016 on the file of District Munsif, Omalur

has been initiated. First respondent rightly had ignored such action in arriving upon a decision on merits. On merits, the first respondent has found that it is the petitioner party who wrongfully had dispossessed the third respondent, she having duly obtained title thereto and having been in possession thereof.

Finding no merits, the Criminal Revision Case is dismissed. Connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

gm

To

- 1.The Sub Collector and
Sub Divisional Magistrate,
Mettur Taluk,
Salem District.
- 2.The Inspector of Police,
Deevattipatti Police Station,
Salem District.
- 3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.P.Vijendran, Advocate sr.2667

+1cc to Mr.G.Surya Narayanan, Advocate sr.2179

सत्यमेव जयते

Cr1.R.C.No.37 of 2017

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