



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2017

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

WEB COPY

CrI.R.C(MD) .No.684 of 2017
and
CrI.M.P. (MD) .No.7812 of 2017

Soundiran @ Sundarajan ... Petitioner/Respondent
-Vs-

1.The Revenue Divisional Officer,
Dindigul,
Dindigul District.

2.Rajesh Kumar

3.Senthilkumar

4.Manimaran

5.Krishnamoorthy ... Respondents 2 to 5/Petitioners 1 to 4

Prayer : Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records of the first respondent, the Revenue Divisional Officer, Dindigul by its order dated 12.10.2015 in Na.Ka.No.7059/2015/Aa4 and set aside the same.

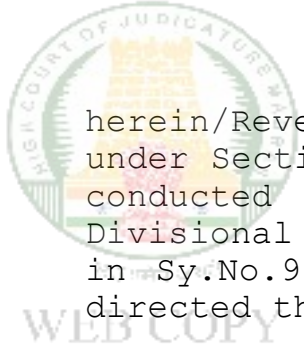
For Petitioner : Mr.M.Karunanithi
For Respondents : Mr.K.S.Durai Pandian
Addl. Public Prosecutor for R-1
Mr.H.Lakshmi shankar
for RR-2 to 5

O R D E R

Challenging the order passed by the first respondent/Revenue Divisional Officer, Dindigul, under Section 145 Cr.P.C, the present Criminal Revision Case has been filed.

2.I have heard Mr.M.Karunanithi, learned counsel appearing for the petitioner, Mr.K.S.Duraipandian, learned Additional Public Prosecutor, appearing for the first respondent and Mr.H.Lakshmi Shankar, learned counsel appearing for the respondents 2 to 5 and perused the records carefully.

3.The learned counsel appearing for the petitioner would submit that the petitioner is the owner of the property situated in Sy.No.91/2, Perumpari Village, Aathur Taluk and there is no pathway in the above said land. The respondents 2 to 5 herein claiming that there is a pathway in the above said land filed a suit in O.S.No.564 of 2015 on the file of the Additional District Munsif Court, Dindigul, seeking for declaration that they are entitled to use the same as pathway and also for permanent injunction. After filing the suit, the respondents 2 to 5 approached the first respondent



herein/Revenue Divisional Officer, Dindigul to initiate a proceeding under Section 145 Cr.P.C. Pursuant to the same, an enquiry has been conducted and even without hearing the petitioner, the Revenue Divisional Officer passed an order holding that there is a pathway in Sy.No.91/2 and the petitioner has closed the same. Hence, he directed the Tahsildar, Aathur to remove the same.

4. According to the learned counsel, without considering the fact that a suit is pending between the parties, the Revenue Divisional Officer, Dindigul has come to a conclusion that there is a pathway in the land situated in Sy.No.91/2, Perumpari Village, Aathur Taluk and also directed the Tahsildar to remove the pathway.

5. The learned counsel appearing for the respondents 2 to 5 submitted that the respondents are using the pathway for the past several years. In the above circumstances, the respondents were constrained to file a civil suit. Pending suit, the petitioner closed the pathway. Hence, they approached the Revenue Divisional Officer. The learned Revenue Divisional Officer has clearly held that the order passed under Section 145 Cr.P.C is only subject to the judgment of the civil court. Hence, there is no infirmity in the order.

6. I have considered the rival submissions.

7. Admittedly, there is a civil suit pending between the parties before the competent civil court and there is no interim order in favour of the respondent. In the above circumstances, the Revenue Divisional Officer/Executive Magistrate cannot issue a direction to remove the alleged obstruction put up in the pathway till the civil court decide the issue regarding the right to use the pathway and the Executive Magistrate cannot decide the issue, when the competent civil court seized of the matter.

8. In the above circumstances, the impugned order passed by the Revenue Divisional Officer/Executive Magistrate, Dindigul is liable to be set aside. Accordingly, it is set aside.

9. In fine, this Criminal Revision Case is allowed. However, since the civil suit is also pending from the year 2015 and the pleadings has also been completed now, the Additional District Munsif, Dindigul is directed to dispose of the suit in O.S.No.564 of 2015 within a period of three months from the date of receipt of a copy of this order and the parties are directed to co-operate for early disposal of the suit. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

/True Copy/



To

1.The Additional District Munsif, Dindigul.

2.The Revenue Divisional Officer, Dindigul.

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

+1cc to Mr.H.LAKSHMI SHANKAR Advocate in SR. No. 75544

+1cc to Mr.M.KARUNANITHI Advocate in SR. No. 75305

vs

JS/JC/SAR.2/19.09.2017/3P-6C

Cr1.R.C(MD) No.684 of 2017
30.08.2017