

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 14.11.2018

CORAM:
THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Criminal Revision Case No.942 of 2014 and
M.P.No.1 of 2014

1. Palanivel
2. Murugesan
3. Kumar

...Petitioners

Vs.

1. The Revenue Divisional Officer
Salem.
2. State, rep. by the
Inspector of Police,
Azhagapuram Police Station
Salem.
3. Govindaraj
4. Perumal
5. A.R.P.Baskar

.....Respondents

Prayer: This Criminal Revision Petition filed under Section 397 read with 401 Code of Criminal Procedure to set aside the order in Na.Ka.5497/2013/A2, dated 31.10.2013 on the file of the Revenue Divisional Officer, Salem in proceedings initiated under Section 145 of Cr.P.C. For the grounds mentioned above.

For Petitioners : Mr.I.Abrar Md Abdullah

For Respondents 1&2 : Mrs.Kritika Kamal.P,
Government Advocate (crl.side)

For Respondents 3,4&5: Mr.S.Anbazhagan, respondents

O R D E R

On account of some disputes with regard to the possession of the land in Survey Nos.44/3 and 44/8 at Alagapuram Village, Salem Taluk, Salem District, between Govindaraj & Party (hereinafter referred to as 'A' party) on the one side and Palanivel & Party (hereinafter referred to as 'B' party) on the other side, a case in Crime No.273 of 2013, on the file of Alagapuram Police Station, Salem, was registered and the matter

was referred to the Sub Collector/Revenue Divisional Officer, Salem, for proceeding under Section 145 Cr.P.C. The Revenue Divisional Officer, by the impugned order dated 31.10.2013, has held that 'A' party is in possession of the land and has directed 'B' party not to disturb their possession. Challenging the said order, 'B' Party are before this Court.

2. Heard Mr.I.Abrar Md Abdullah, learned counsel for the petitioners/'B' party; Mr.S.Anbazhagan, learned counsel for the respondents 3,4 & 5 / 'A' party and Mrs.Kritika Kamal.P, learned Government Advocate (crl.side) appearing for the respondents 1 and 2/State.

3.Mr.I.Abrar Md Abdullah, learned counsel for the petitioners/'B' party, submitted that after the impugned order was passed by the Revenue Divisional Officer, Salem, 'A' party have executed sale deeds dated 18.02.2014, registered as Document Nos.1000/2014 and 1001/2014 citing the impugned order, in the body of the documents and have been alienating the properties. He further contended that there are also further alienations and challenging this, 'B' party have filed a comprehensive suit in O.S.No.95 of 2015 for partition, injunction and declaration that the sale deeds are null and void and the same is pending on the file of the I Additional District Court, Salem.

4.It is the grievance of Mr.I.Abrar Md Abdullah, learned counsel for the petitioners/'B' party that the Revenue Divisional Officer, in the impugned order dated 31.10.2013, has decided the title to the said property by holding that it belongs to Chinnapillai, wife of Govindaraj, which is beyond his jurisdiction.

5.Per contra, Mr.S.Anbazhagan, learned counsel for the respondents 3,4 & 5 / 'A' party, refuted the contentions.

6.Be that as it may, an order under Section 145 Cr.P.C., passed by the Executive Magistrate is limited only to the extent of deciding possession qua dispossession. Incidentally, the Executive Magistrate may have to refer to the documents with regard to the title to the property. Any finding by the Executive Magistrate in respect of the title cannot have a binding effect in a regular suit before the Civil Court where the title and possession have to be decided independently based on the evidence adduced by the parties.

7.Therefore, the trial Court may proceed with the trial in O.S.No.95 of 2015 without in any manner being influenced by any of the observations made in the impugned order dated 31.10.2013 passed by the Executive Magistrate/Revenue Divisional Officer.

8.With the above observations, this Criminal Revision Case stands closed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ksa-2/jbm

To

1.The I Additional District Court
Salem.

2.The Revenue Divisional Officer
Salem.

3.The Inspector of Police,
Azhagapuram Police Station
Salem.

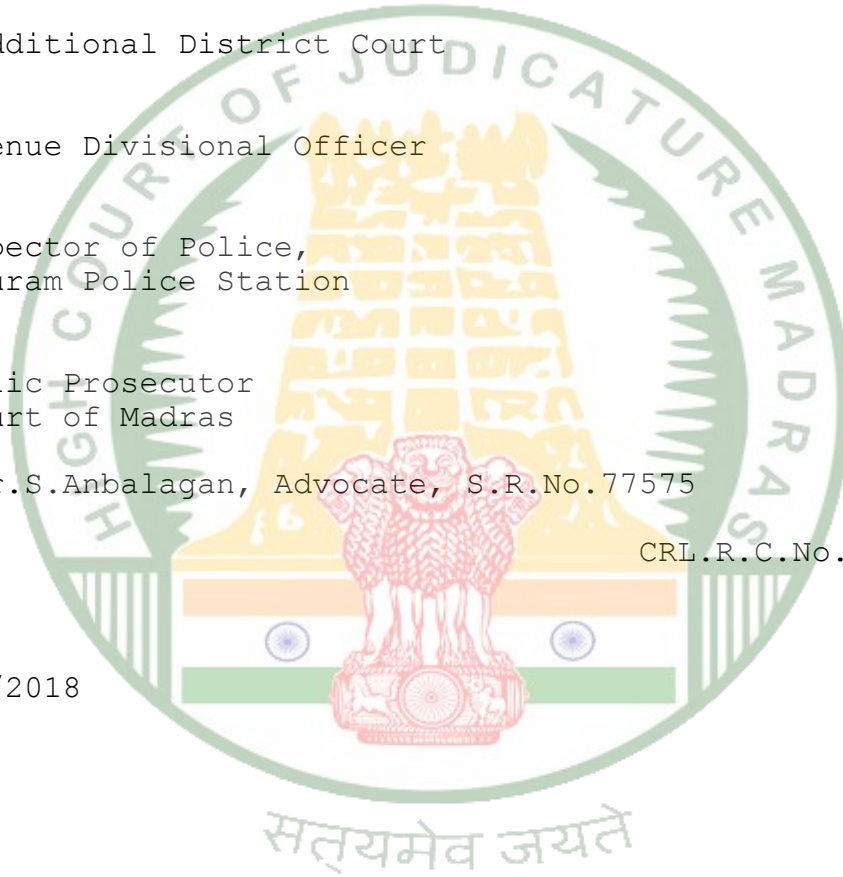
4.The Public Prosecutor
High Court of Madras

+1cc to Mr.S.Anbalagan, Advocate, S.R.No.77575

CRL.R.C.No.942 OF 2014

RGN(CO)

rrs 14/11/2018



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