



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON: 11.04.2018
DELIVERED ON : 07.06.2018

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

CrI. R.C.(MD)No.881 of 2017

and

CrI.M.P.(MD)No.10819 of 2017

M.Sathakkathulla,
President,
Muslim Jamath Committee,
Arulatchi @ Thirumalpuram,
Sivagiri Taluk,
Tenkasi,
Tirunelveli District.

... Petitioner /A party

Vs.

1.The Revenue Divisional Officer cum
Sub Divisional Magistrate,
Tenkasi, Tirunelveli District.

2.The Inspector of Police,
Vasudevanallur Police Station,
Tirunelveli District.
(Crime No.123 of 2015)

...2nd Respondent/Complainant

3.Venkatesh

4.Ganesan

5.Kadarkarai

6.Madasamy

7.Anandaraj

8.Natarajan

9.Muthuraj

.. Respondents No3 to 9/B party

Prayer : This revision case is filed under Sections 397(1) r/w. 401 of Cr.P.C., to call for the records relating to the order dated 30.01.2017 made in MD.No.12/PF2/145 Cr.P.C./2015 on the file of the first respondent passed under Section 145(1) of Cr.P.C., and set aside the same as illegal.



For Petitioner

: Mr.T.Sulthan Basha

For Respondents 1 and 2

: Mr.K.Suyambulinga Bharathi

Government Advocate (Crl. Side)

For Respondents 3 to 9

: Mr.M.Veilkani Raju

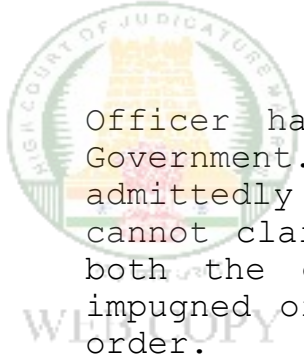
ORDER

Heard Mr.T.Sulthan Basha, learned counsel appearing for the petitioner, Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl. Side) appearing for the respondents 1 and 2 and Mr.M.Veilkani Raju, learned counsel appearing for the respondents 3 to 9.

2.This revision case has been filed to set aside the order passed by the respondent in ந.க.அ.2/ப.ப.2/145 கு.வி.மு.த/2015 dated 30.01.2017 on the file of the first respondent under Section 145(1) of Cr.P.C. A dispute arise between two group of persons regarding the Survey No.874/2 to an extent of 20 Ares (50 cents) out of 01.16.05 Hectares situated at Thirumalapuram Village, Sivagiri Taluk, Tirunelveli District. The matter was registered by the Inspector of Police, Vasudevanallur Police Station under Section 145 Cr.P.C., in Crime No.123 of 2015 dated 20.04.2016. The Inspector of Police has referred the matter to the Revenue Divisional Officer, Tenkasi. The Revenue Divisional Officer, after giving opportunity to both sides and after considering the report of the Tahsildar, has passed the impugned order.

3.On the side of the petitioner, it is stated that the piece of land was enjoyed by the Jamath for the past 100 years and it was used as Burial Ground and Eidka Prayer Ground for the muslims. The said Jamath was also registered under the Tamil Nadu Wakf Board in Reg.No.436. The Majith committee constructed a compound wall with a height of 8 feet and locked the area with iron doors. The petitioner Jamath Committee was paying tax for this land being continuously utilized this land become Wakf land. When the common wall is being renovated, the respondents herein who are the de-party in the proceedings created problems stating that this land is a pasture land. When the matter was referred to the Revenue Divisional Officer, the Revenue Divisional Officer has passed an order in the nature of interim injunction, descending the title of the property. He prayed to set aside the impugned order passed by the first respondent.

4.On the side of the respondents, it is stated that there is a dispute between two groups of people. 'A' group belong to muslim religion and 'B' group belong to Hindu Vellalor community. When 'A' group tried to construct a wall surrounding the disputed property, the 'B' group opposed the same. On the request of the second respondent and after elaborate enquiry, the Revenue Divisional



Officer has passed the impugned order. The land belong to the Government. Both the parties cannot claim title. The petitioner admittedly paid the penalty for encroaching the land. An encroacher cannot claim title over the property. As there was tension between both the groups, the Revenue Divisional Officer has passed the impugned order. The peace prevails in the area after passing this order.

5. On the side of the petitioner, the learned counsel for the petitioner has placed reliance on the order passed by this Court in the case of V. Nagalingam and Another v. District Revenue Officer, Villupuram and Another reported in (2011) 1 MLJ 549 which reads as follows:

"Held, DRO has no jurisdiction to decide title and possession nor pass prohibitory order in nature of injunction - only Civil Court has jurisdiction to decide title and pass above said orders-"

"Similarly, the District Revenue Officer has no authority to declare the title and grant prohibitory order or any injunction. It is settled prohibition of law, which has been granted by the Civil Court and that is not disputed by the learned Additional Government Pleader appearing for the first respondent."

6. On the side of the respondent, it is stated that in the above said Judgment, the dispute is between two private parties and only the Civil Court has jurisdiction to decide the title whereas this Judgment is not applicable to the present case wherein the disputed land is the Government land.

7. Records perused. The petitioner claimed the property as the property is being used as burial ground for the muslims. It is stated that the petitioner is paying the Kisthi for the property and using the property by constructing the wall with iron doors. The petitioner is said to have paid penalty on 'B' Memo. 'B' Memo cannot confer title against the Government. In the revenue records, Survey No. 874/2 is recorded as pasture land and Survey No. 906 is recorded as road poramboke. It is seen that these lands were registered in the Wakf Board only on 03.11.2013. In the revenue records and in the report of the Tahsildar, it is stated that there is no Majith in the particular place and the place is not used as burial ground. As per the report of the Tahsildar, there is Majith and burial ground only in Survey No. 989/32. The petitioner has to prove their title only through the Civil Court. Mere registration by the Registrar of the Wakf Board cannot confer any title in favour of the petitioner Committee. Since the land belongs to the Government and there is dispute between two groups of persons, the Execution Magistrate/the Revenue Divisional Officer has passed the impugned order objecting the claim of the petitioner's right over the road promboke and there is no illegality in the order.



8. In the circumstances, there is no merits in the petition. Hence, This criminal revision case is dismissed. Consequently, Crl.M.P. (MD) No.10819 of 2017 is closed.

WEB COPY

/True Copy/

Sd/-

Assistant Registrar (RTI)

Sub Assistant Registrar

To

1. The Revenue Divisional Officer cum
Sub Divisional Magistrate,
Tenkasi, Tirunelveli District.

2. The Inspector of Police,
Vasudevanallur Police Station,
Tirunelveli District.

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

+1CC to M/s. Ajmal Associates in SR.No.67323.

MRN

DS/JC/SAR-4 :19.06.2018: 4P/5C

Crl. R.C. (MD) No.881 of 2017
07.06.2018