

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.02.2019

CORAM
THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Criminal Revision Case No.64 of 2010
and M.P.No.1 of 2010

Pulavar Pugazenthi

...Petitioner

Vs.

1.The Sub Divisional Magistrate-cum-
Revenue Divisional Officer,
Chingleput.

2.The State rep.by
Inspector of Police,
C-5, Pallikaranai Police Station.

3.S.Gowtham Sankar

...Respondents

PRAYER: Criminal Revision Case filed under Section 397 and 401 of Cr.P.C against the order dated 16.02.2004 passed by the Sub Divisional Magistrate-cum-Revenue Divisional Officer, Chingleput vide proceedings in R.Dis.9579/2003(B).

For Petitioner : Mr.Ramkumar
for Ms.AL.Ganthimathi

For Respondents: Mr.K.Prabakar
Additional Public Prosecutor for R1 & R2

ORDER

The revision has been filed against the order dated 16.02.2004 passed by the Sub Divisional Magistrate-cum-Revenue Divisional Officer, Chingleput vide his proceedings in R.Dis.9579/2003(B), initiated under Section 145 of Cr.P.C.

2.When the matter is taken up for hearing, the learned counsel appearing for the revision petitioner would submit that the matter relates to proceedings initiated under Section 145 of Cr.P.C., during the year 2004. He would further submit that as per Section 145 (4) of Cr.P.C., the Executive Magistrate can decide only to the extent of regarding as to who is in possession and he cannot render any finding with regard to the title of the property, which can only be the purview of appropriate Civil Court.

3. However, the learned counsel fairly submitted that as on date, the petitioner is not in possession. He would further submit that the finding of the Executive Magistrate as the last sentence of the unnumbered paragraph No.5 that "The perfect title of the 'A' party is proved with beyond the doubt in all the quarters", is not proper and it has to be expunged.

4. The learned Additional Public Prosecutor submitted that the impugned order is dated 16.02.2004 and that admittedly the petitioner is not in possession.

5. Proceedings under Section 145 of Cr.P.C contemplates three ingredients viz., i) a dispute ; ii) relating to (possession of) land ; iii) likely to cause breach of peace and the Executive Magistrate / Authority gets jurisdiction to intervene whenever he is "Satisfied" that these three elements are in existence. He cannot traverse beyond deciding this and his jurisdiction has nothing to do with the determination of the question as to the right to possession or title which can be agitated and decided only by the appropriate civil forum. The jurisdiction of the Executive Magistrate is a very limited one restricted to prevention of apprehended breach of peace.

6. In view of the above, the finding of the learned Executive Magistrate in the last line of the unnumbered paragraph No.5 of the impugned order "The perfect title of the 'A' party is proved with beyond the doubt in all the quarters" alone is expunged, in all other aspects the impugned order stands good.

7. With the above direction, the Criminal Revision Case stands disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ms

To

1.The Sub Divisional Magistrate-cum-
Revenue Divisional Officer,
Chingleput.

2.The Inspector of Police,
C-5, Pallikaranai Police Station.

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3.The Public Prosecutor,
High Court, Madras.

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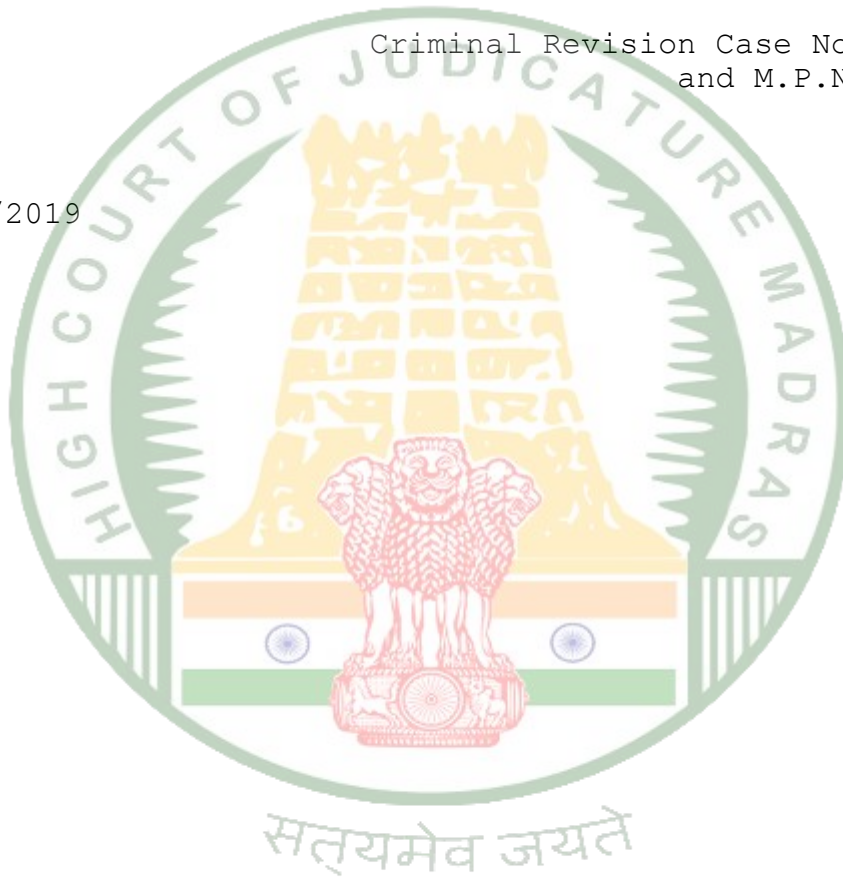
The Section Officer,
Criminal Section,
High Court,
Madras.

+lcc to Mr.AL.Ganthimathi, Advocate, S.R.No.12663

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and M.P.No.1 of 2010

VSNII(CO)

rrs 13/03/2019



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