

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2019

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.1533 of 2012

and

Crl.M.P.No.1 of 2012

1.P.Karuppusamy

2.K.Radhika

.... Petitioners/'A' Parties

vs

1.The Divisional Executive Magistrate and
Revenue Divisional Officer,
Coimbatore.

: Respondent/Presiding Officer

2.N.Sundaramoorthy

: Respondent/'B' Party

3.S.Parasuraman

: Respondent/'B' Party

4.The Inspector of Police
Thudiyalur Police Station,
Coimbatore.

: Respondent/Respondent

Prayer Criminal Revision filed under Section 397 r/w 401 of Code of Criminal Procedure, to issue a order or direction call for the entire records connected with, proceedings of 1st respondent under Section 145 Cr.P.C., vide Mu.Mu.M.C.40/2012/A1 dated 12.09.2012 on the file of the Divisional Executive Magistrate and Revenue Divisional Officer, Coimbatore District and set aside the same.

For Petitioners : Mr.S.Saravanan

For R1 and R4 : Mr.T.Shanmugarajeshwaran

Government Advocate (Crl.Side)

For R2 and R3 : Notice not served.

ORDER

The petitioners herein have filed this revision case as against the order passed by the The Divisional Executive Magistrate and Revenue Divisional Officer, Coimbatore, in Mu.Mu.M.C.40/2012/A1 dated 12.09.2012.

2 The learned counsel for the petitioners would submit that since a Civil Suit is pending before the Principal District-cum-Munsif Court, Coimbatore, in O.S.No.291 of 2012,

the Divisional Executive Magistrate and Revenue Divisional Officer has no power to pass orders in the proceedings under Section 145 Cr.P.C., which warrants interference by this Court.

3 Heard, the learned counsel for the petitioners and perused the materials available on record.

4 On considering the fact that there is a civil suit is pending between the parties in O.S.No.291 of 2012, and an interim order is operating in favour of the petitioners herein restraining the 2nd and 3rd respondent herein from any-where in any manner disturbing the peaceful possession and enjoyment of the suit property. Further, in the collusive suit filed by the second and third respondent against the late Mr.P.Devaraj @ N.P.Devarajan vide O.S.No.559 of 2012 also does not restrain the petitioners from entering the suit property. Hence, the 1st respondent cannot restrain the petitioners herein from entering into the disputed property.

5 Under these circumstances, this Court finds that there is no perversity in the impugned order. Since the impugned order itself shows that the Divisional Executive Magistrate and Revenue Divisional Officer has pointed out that he has no power to decide the matter as civil suit is pending between the petitioners has not passed any effective order in the present case, except to direct the parties to maintain peace and not to create any hindrance to public.

6 In such view of the matter, the Criminal Revision Case is disposed of with direction to the parties work out their remedy before appropriate forum in accordance with law. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar (CS-VIII)

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Sub Assistant Registrar

sbn

To

1.The Divisional Executive Magistrate and
Revenue Divisional Officer,
Coimbatore.

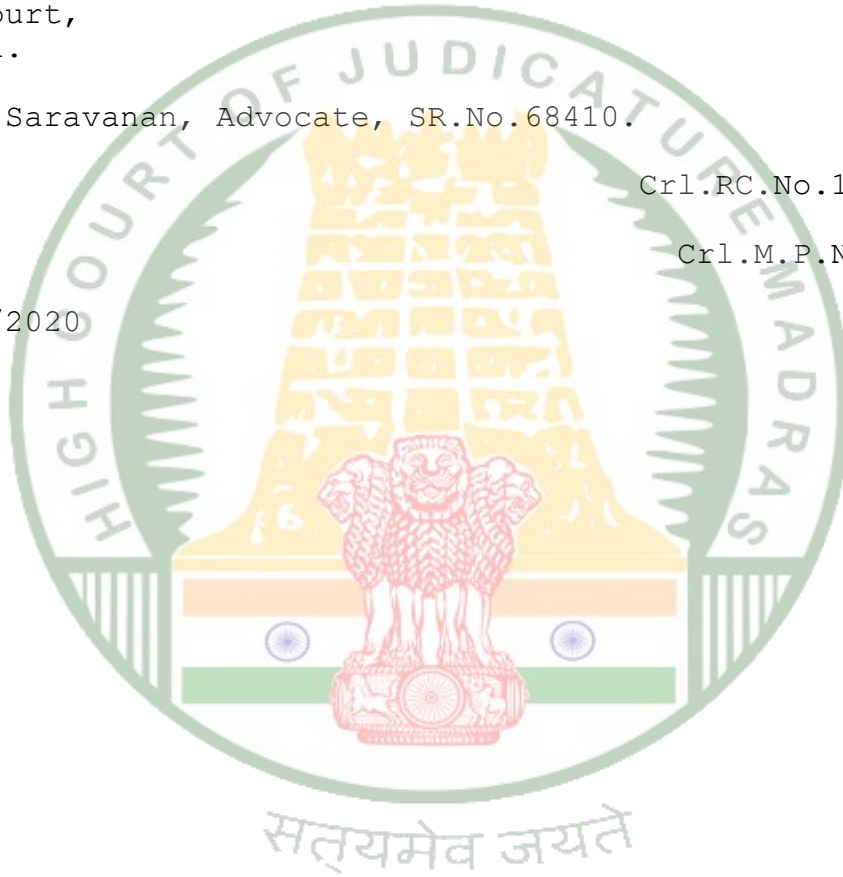
2.The Inspector of Police
Thudiyalur Police Station,
Coimbatore.

3.The Public Prosecutor,
High Court,
Chennai.

+1CC to P.Saravanan, Advocate, SR.No.68410.

CrI.RC.No.1533 of 2012
and
CrI.M.P.No.1 of 2012

PVS (CO)
CSR:27/01/2020



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