

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 11.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE DR.G.JAYACHANDRAN

Criminal Revision No.252 of 2012

1. K. Krishnaveni

2. K. Kavitha

Petitioners/A-Party

Vs

1. The Revenue Divisional Officer
Coimbatore

2. The Inspector of Police
B-3, Kattur Police Station, Coimbatore 1st and 2nd Respondents

3. Eswariammal

4. V.G. David 3rd and 4th respondents/
B Party

5. Kausalya

6. Rajani

7. Rani 5th to 7th respondents/
A Party

Prayer: Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. to call for the records of the 1st respondent in Na pa Mu.11246/2009/A1 dated 01.02.2012 and quash the same.

For Petitioners : Mr. AR.L. Sundaresan, SC for Mr. K. Velu

For Respondents : R1 & R2 : Ms. P. Kritika Kamal
Government Advocate

R3 : Mr.S.Vijayaraghavan for
Mr.G. Vasudevan

R4 to R7: No Appearance

O R D E R

This Revision is directed against the order passed by the Revenue Divisional Officer, Coimbatore dated 01.02.2012 under Section 145 of Cr.P.C.

2. The first petitioner Smt. Krishnaveni and the 3rd respondent Easwariammal are wives of late Kandasamy. The property located at D.No.227 Dr.Rajendra Prasad Road, Tatabad, Coimbatore purchased in the name of Easwariammal. After the demise of Kandasamy, dispute between Krishnaveni and Easwariammal arose. Krishnaveni and others claim right over the property through a will purported to be executed by Kandasamy, which is denied and disputed by Eswariammal. The tax assessment of Corporation is in the name of Krishnaveni, parties are agitating title before the Civil Court.

3. When the Civil Suits were pending between the parties, out of 3 portions in the said premises, one premises occupied by one David and was alleged to take possession by Krishnaveni. So, police complaint was lodged to that effect. Since there was a law and order issue, the Kattor Police station Inspector has recommended for initiation of proceedings under Section 145 of Cr.P.C. In the said circumstances, the Revenue Divisional Officer has passed the impugned order, wherein he has observed that Krishnaveni and her daughter Kavitha have given a complaint against David. Based on their complaint, the premises was locked by the local police station. According to the impugned order, the said act is contra to the natural justice. It has deprived a person his business in the premises. Therefore B3 Kattor Police was directed to open the premises and hand over the same to David for running his business. Further, David was directed to pay the monthly rent in a specific Civil Account. This was an interim order subject to the outcome of the Civil dispute between the parties reaches logical end.

4. Aggrieved by that, the present Revision Petition has been filed by Krishnaveni and her daughter Kavitha. Interim order of stay was granted by this Court, pending revision. When the matter was taken up for final hearing, there was a contra submissions regarding the factual possession of the disputed property. The Revision Petitioner claimed that out of three portions, except the portion which is the subject matter of the revision petition, the other two portions are under their control and tenants are paying the rent to them, pursuant to the direction in RCOP proceedings. Whereas the counsel appearing for the 3rd respondent submit that the two tenants are paying the rent to them and the third portion which was in possession of David is still under lock and police has not given back the key as per the order of the Revenue Divisional Officer in view of the interim stay granted by this Court pending disposal of the Revision challenging the order of the Revenue Divisional Officer.

5. To ascertain the current status of the property, this Court directed the 2nd respondent B3 Kattoor police station, Coimbatore to file a status report. Today, the 2nd respondent has filed a status report which reads as follows

"I submit that, the following is the present status of the possession of the said Property in dispute:-

a) There are 3 shops owned by the 3rd Respondent Easwariammal in Door No.227, Dr. Rajendra Prasath Road/100 feet Road, Tatabad, in C-1 Kattor Police Station limit in Coimbatore City. The 1st shop is in possession of one Rajkumar who is running a Tea Shop called "P.R.G Tea Shop" and he is in possession of the key. Similarly the 2nd shop is in possession of one Jaganathan, who is running a computer shop called "Net Fusion Technology" and he is in possession of the key. The 3rd shop was in the possession of one David, and he was running an Aquarium shop therein. In the month of July 2017, the said David feel sick and hence he vacated the said shop and handed over the key to the 3rd respondent Easwariammal. Since then, Easwariammal is in possession of the Shop No.3 and the key of the Shop. David has expired on 05.11.2017.

7. I submits that, shop No.1 is now used by Rajkumar as a Tea shop under a lease agreement between him and 3rd respondent Easwariammal and shop No.2 is now used by Jeganathan as a Computer Shop under an lease agreement between him and 3rd respondent Easwariammal. Both Rajkumar and Jaganathan are giving the rent to 3rd respondent Easwariammal."

The above contentions found in the status report is denied by the Revision Petitioner herein. The Counsel submits that the Status Report does not reflect the true factual position.

6. As far as this Revision Petition is concerned, the scope of this Court is very limited. It has to find whether the impugned order is perverse, illegal or erroneous. More so, after lapse of 6 years and the Civil dispute between the parties has almost concluded. The impugned order is two fold. Firstly, pending the Civil dispute between the parties, the Revenue Divisional Officer has directed the police to hand over the key to David and in turn David has to deposit rent every month. It is now brought to the notice of this Court that at present, the civil dispute has come to an end, except a review petition filed by the 3rd respondent. Secondly, David to whom the impugned order directs to get the key is no more, he died on 05.11.2017 and the key was never given to him.

7. The learned Senior Counsel Mr.A.R.L.Sundaresan appearing for the Revision Petitioners states that in OS No. 966 of 2004 on the file of III Additional District Munsif, Coimbatore, attempt of the revision petitioners herein to bring themselves as legal heirs of the deceased Kandasamy failed. If it is so, the parties have to work out the remedy elsewhere. The said fact is not relevant for deciding the legality of the order impugned in this Revision.

8. As far as the impugned order of the Revenue Divisional Officer dated 01.02.2012 is concerned, it has become infructuous, soon after the demise of David on 05.11.2017 and disposal of the Civil litigations. If the parties have any further grievance to be redressed, they have to work out their remedy before the Civil Court. They should not try to take possession otherwise than due process. Therefore, without adverting to the other issues regarding the title, which is not within the scope of this Revision Petition, this Court holds that the revision petition has to be disposed in view of the fact that the impugned order has become infructuous.

9. Accordingly, the Criminal Revision petition is disposed of.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

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To

1.The Revenue Divisional Officer, Coimbatore, Coimbatore District

2. The Inspector of Police, B-3 Kattur Police Station, Coimbatore.

3. The Public Prosecutor, High Court, Madras-104.

+1cc to Mr.G.Vasudevan, Advocate SR.No.22392

+1cc to Mr.K.Velu, Advocate SR.No.22988

Criminal Revision No.252 of 2012

CA (CO)
GMY (23/04/2019)