

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1122 of 2017 and
Crl.M.P.No.10599 of 2017
and
W.P.No.21453 of 2017 and
W.M.P.Nos.22446 and 33781 of 2017

Crl.R.C.No.1122 of 2017

1.B.Srinivasan

2.S.Suganya

3.K.Balasubramaniam

4.B.Sujatha

.. Petitioners
in Criminal Revision

Vs

1.The District Magistrate and District Collector,
Office of the District Collectorate,
Erode District.

2.The Sub Divisional Executive Magistrate and
Revenue Divisional Officer,
Erode District.

3.Suresh

4.Krishnan

5.Ramanichandran

सत्यमेव जयते
WEB COPY

6.The Inspector of Police,
Karungalpalayam Police Station,
Erode.

.. Respondents
in Criminal Revision

PRAYER in Criminal Revision: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, to call for the records connected with, proceedings of 1st respondent proceedings vide Na.Ka.20548/2017/A1 dated 27.07.2017 on the file of District Magistrate and District Collector, Erode District and set aside the same.

For Petitioners in Crl.R.C. : Mr.P.Saravanan

For Respondents in Crl.R.C : Mr.R.Surya Prakash, for R1 & R2

Government Advocate

Mr.G.M.Anantha Kumar, for R3 to R5

W.P.No.21453 of 2017

1.S.Krishnan

.. Petitioner
in Writ Petition

Vs

1.The District Revenue Officer,
Erode District.

2.The Inspector of Police,
Karungalpalayam,
Erode – 3.

3.Srinivasan

4.Sukanya

5.K.Balasubramanian

6.Sujatha

.. Respondents
in Writ Petition

PRAYER in Writ Petition: Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari, calling for the records of the 1st respondent in Na.Ka.No.2367/2017/A2 and to quash the order dated 17.07.2017 made therein in purported exercise of power under Section 145 of the Code of Criminal Procedure.

For Petitioners in W.P. : Mr.G.M.Anantha Kumar
For Respondents in W.P. : Mr.R.Ravichandran, for R1 & R2
Government Advocate (Crl.side)
Mr.P.Saravanan, for R3 to R6

COMMON ORDER

There was a dispute between the petitioners and the third and fourth respondent in Criminal Revision Case with regard to title to the subject matter of the property. When they approached the second respondent in the Criminal Revision Case namely Revenue Divisional Officer, an order was passed on 17.07.2017, against which an appeal was filed before the District Collector who has granted an interim stay on 27.07.2017. As against the same, the petitioners have filed the present criminal revision on the ground that first respondent has no power to entertain appeal against the order passed under Section 145 Code of Criminal Procedure.

2.The learned counsel for the revision petitioners in criminal revision case submitted that the full Bench of this Court in the decision **reported in A.Dhaveethu Vs. The District Collector and others** has held that as against the order passed by the officer is the rank of 2nd respondent, either they can move a revision or an appeal before the competent civil Court and not a further appeal before the first respondent. Therefore, the order passed by the first respondent is liable to be set aside.

3.The 4th respondent in this criminal revision has filed the writ petition before this Court challenging the order passed by the Revenue Divisional Officer on 17.07.2017.

4.Admittedly, there is a dispute with regard to title and possession of the property between the petitioners and the third and fourth respondent in the Criminal Revision Case. The Revenue Divisional Officer/second respondent in the Criminal Revision Case has only invoked Section 145 of the code to maintain law and order that had emanated due to the dispute between the petitioners and the third and fourth respondents in respect of the title to the property. As against the order passed by the Revenue Divisional Officer, an appeal

was filed before the District Collector, who has no power to conclude as to who is the rightful owner of the property or who has a right and title to be in possession of the property. Such a dispute has to be adjudicated only by the competent civil Court. The first respondent has no authority either to give a declarative decree or possessory decree. Under those circumstances, the order dated 27.07.2017 passed by the first respondent/District Collector is liable to be set aside. The first respondent is not an appellate authority to test the correctness of the order passed by the original authority namely the Revenue Divisional Officer. Therefore, both the parties have to move the competent civil Court for appropriate remedy.

5. In the result, the Criminal revision Case and the writ petition are disposed of to the extent indicated above. It is left open to either of the party to approach the competent civil Court to seek appropriate relief. Consequently, connected miscellaneous petitions are closed.

WEB COPY 13.02.2019

Index: Yes/No
AT

Note: Issue order copy on 15.02.2019

P.VELMURUGAN,J.

AT

To

- 1.The District Magistrate and District Collector,
Office of the District Collectorate,
Erode District.
- 2.The Sub Divisional Executive Magistrate and
Revenue Divisional Officer,
Erode District.
- 3.The Inspector of Police,
Karungalpalayam Police Station,
Erode.
- 5.The District Revenue Officer,
Erode District.

Crl.R.C.No.1122 of 2017 and
and
W.P.No.21453 of 2017 and



WEB COPY

13.02.2019