



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2019

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.R.C. (MD) No. 959 of 2011

WEB COPY

1. Mary Kamala

2. Maria Aruputham

... Petitioner

Vs.

1. Devadas

2. David

3. Dennis

4. The Revenue Divisional Officer,
and Sub Divisional Magistrate,
Padmanabhapuram,
Kanyakumari District.

... Respondents

(R4 impleaded as per the order of this Court
made in M.P. (MD) No. 2 of 2011 in Crl.R.C. (MD)
No. 959 of 2011 vide its order dated
13.12.2011)

Prayer: Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C, to call for the records and set aside the order in Aa2/4761/2009 dated 21.07.2011 on the file of the Sub Divisional Magistrate and Revenue Divisional Officer, Padmanabhapuram and allow this criminal revision case.

For Petitioner : Mr.K.Sreekumaran Nair

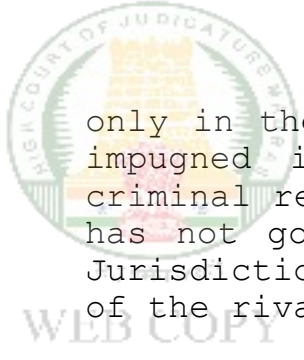
For Respondents : Mr.A.Robinson
Govt. Advocate (Crl. Side) for R4

Ananth C.Rajesh for R1

O R D E R

What is under challenge is an order passed by the Revenue Divisional Officer, Padmanabhapuram under Section 145 of Cr.P.C. Mere reading of the said order shows that the Revenue Divisional Officer had given a decision that the property in question belongs to Thiru.Devadasan and Mrs.Maiya Thangam. Aggrieved by the same, this criminal revision case has been filed.

2.It is well settled that the Revenue Divisional Officer is the Executive Magistrate exercising his power under Criminal Procedure Code can only decide the issue of possession. He cannot go into any issue of title. It is now submitted that a partition suit in O.S.No.101 of 2011 has been filed before the learned Sub Court, Kuzhithurai, by the petitioner herein and it is still pending. Therefore, the parties herein are to agitate their rights



only in the pending civil suit. In view of this matter, the order impugned in this criminal revision case is set aside and the criminal revision case is allowed. It is made clear that this Court has not gone into the merits of the issue and it is left to the Jurisdictional Civil Court to pronounce on the possession or title of the rival claims.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To:

- 1.The Sub Court, Kuzhithurai.
- 2.The Revenue Divisional Officer,
and Sub Divisional Magistrate,
Padmanabhapuram,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to: The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

- +1 CC to Mr.ANANTH C.RAJESH, Advocate SR-72704.
+1 CC to Mr.K.SREEKUMARAN NAIR, Advocate SR-72771.

Cr1.R.C. (MD) No.959 of 2011
02.07.2019

CS(13.09.2019) 2P 8C