



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2019

CORAM

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C.(MD)No.451 of 2013

and

M.P.(MD)No.1 of 2013

1.Pappathi

2.Chitra

...Petitioners/Opposite Parties

Vs.

1.The Sub Divisional Executive Magistrate

Cum Revenue Divisional Officer,

Kuzhithalai, Karur District.

2.Thatha Naicker

3.Thamma Naicker

... Respondents/Respondents

Prayer: Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C, to call for the records relating to the order passed by the learned Sub Divisional Magistrate Cum R.D.O., Kulithalai dated 12.12.2012 in proceedings Na.Ka.A1/4223/2012 and set aside the same.

For Petitioners : Mr.K.Govindarajan

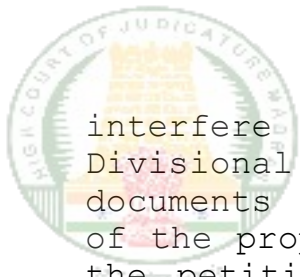
For Respondents : Mr.A.Robinson
Govt. Advocate (Crl. Side) for R1

: Mr.G.Sridharan for R2 & R3

O R D E R

The revision petitioners herein aggrieved by the impugned order dated 12.12.2012, passed by the Sub Divisional Magistrate Cum Revenue Divisional Officer, Kulithalai, forbearing them from interfering with the possession of the private respondents herein in respect of S.No.516/2, Pothuravuthampatti village has filed this criminal revision case.

2.Before the Revenue Divisional Officer, Kulithalai, the second and third respondents herein filed a petition dated 22.11.2012 alleging that mutation patta proceedings ended in their favour on 09.10.2012 and that without regard to the mutation of patta in their favour, Pappathi and Chitra are attempting to



interfere with their possession and enjoyment. The Revenue Divisional Officer, Kulithalai, on a perusal of the revenue documents came to the conclusion that the possession and enjoyment of the property is only with the private respondents and restrained the petitioners herein from interfering with the possession and enjoyment of the private respondents till a permanent arrangement is arrived at. It was specifically ordered by the Revenue Divisional Officer, Kulithalai that till then the proceedings of the Thasildar issued vide order dated 09.10.2012 will continue been in force.

3. When the matter was taken up for hearing, the learned counsel appearing for the second and third respondents submitted that after suffering the impugned order at the hand of the Revenue Divisional Officer, the petitioners herein filed O.S.No.103 of 2012, before the learned Sub Court, Kulithalai, seeking certain reliefs. The said suit was dismissed on 21.02.2019. He submitted that in the suit a specific challenge was made in respect of the proceedings dated 09.10.2012 issued by the Thasildar, Krishnarayapuram. Inasmuch as the petitioners herein suffered dismissal of their suit at the hands of the Jurisdictional Civil Court., no further orders are necessary in this criminal revision case.

4. As rightly submitted by the learned counsel appearing for the second and third respondents that in view of the institution of the civil proceedings and its conclusion before the Trial Court, nothing further does really survive. But then, this Court has to necessarily observe that the first respondent herein erred in assuming jurisdiction over the matter. This is a simple civil dispute between the petitioners and Pappathi and Chitra in respect of a certain property. The private respondents herein have succeeded before Jurisdictional Thasildar. If the private respondents apprehend any violation of their enjoyment rights, the remedy open to them was to go before the Jurisdictional Musif Court. The Revenue Divisional Officer can exercise his jurisdiction under Section 145 of Cr.P.C. if the dispute was likely to cause breach of peace. In this case no report was submitted by the concerned police that the dispute between the parties was likely to trigger the breach of peace. The first respondent herein has not indicated as to how the dispute will spiral out of control causing threat to peace. Therefore, the order passed by the first respondent is set aside solely on the ground of jurisdiction. It is made clear that this Court has not gone into the merits of the matter.

5. With these observations this criminal revision case is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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To:

The Sub Divisional Executive Magistrate
Cum Revenue Divisional Officer,
Kuzhithalai, Karur District.

+1 CC to Mr.K.GOVINDARAJAN, Advocate SR-72724.
+1 CC to M/s.G.SRIDHARAN, Advocate SR-72874.

Cr1.R.C. (MD) No.451 of 2013
02.07.2019

CS 16.07.2019/3P/4C