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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 28.09.2020

Pronounced on : 05.10.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.542 of 2020
and Crl.MP.Nos.4283 & 4284 of 2020

1.Deepa
2.G.Jayaprakasam .. Petitioners / B Parties

Vs.

1.The District Collector
Erode District
Erode.

2.The Sub Divisional Magistrate /
Revenue Divisional Officer
Erode District
Erode.

3.The Tahsildar
Kodumudi Taluk
Erode District.

4.The Inspector of Police
Kodumudi Police Station
Kodumudi
Erode District.

... Respondents 1 to 4

5.S.Vadivel
6.R.Vijaya
7.S.Renugadevi
8.V.Sadasivam
9.Mohanraj
10.Muthusamy
11.Sudhakar

..Respondents 5 to 11 / A Parties

Criminal Revision Petition filed under Section 397 r/'w.
401 Cr.P.C., praying to set aside the order made in
Na.Ka.No.2159/2020/A2 on the file of the second respondent,
dated 08.06.2020.



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For Petitioners: Mr.A.Sundaravadhanan
for Mr.B.Singaravelu
For Respondents: Mrs.P.Kritika Kamal
Government Advocate [Crl. Side]
for RR1 to 4
Mr.M.Guruprasad for R5 & R11
Mr.G.R.Hari for Mr.C.E.Pratap
for RR8 to 10
R6 & R7 - No Appearance

ORDER

This case was heard through video conferencing.

2. This revision is filed to set aside the order made in Na.Ka.No.2159/2020/A2 on the file of the second respondent, dated 08.06.2020.

3. The disputed property is a land and a house in Survey No.312/1 and 312/2 measuring an extent of 4 acres and 44 cents in Chennasamudaram Village, Erode Taluk, Erode District. Deepa, the first petitioner filed a suit for partition in O.S.No.113 of 2010 in the II Additional Sub Court, Erode, against her siblings viz., Vadivel, Vijaya and Renugadevi (respondents 5 to 6 herein) and others. The suit was decreed on 03.01.2020.

4. It is the contention of the petitioners that during the pendency of the suit, Deepa's brother Vadivel sold the property to third parties viz., Sadasivam, Mohanraj, Muthusamy and Sudhakar (respondents 8 to 11 herein) in bits and pieces, and created encumbrances in the property.

5. It is alleged that Deepa and her husband Jayaprakasam attempted to take possession of the property on 22.02.2020, and on the complaint lodged by Vadivel, a petition enquiry in CSR.No.42/2020 was registered by the Inspector of Police, Kodumudi Police Station. The Inspector of Police, Kodumudi Police Station, placed the papers relating to CSR.No.42 of 2020 before the Sub Divisional Magistrate cum Revenue Divisional Officer for action under Section 145 Cr.P.C., The learned Magistrate by the impugned order dated 08.06.2020, has ousted everyone from the property, locked the house, and directed to hand over one set of keys to the Revenue Department and another set of keys to the police, however, permitted Sudhakar alone to water the crops. It is also contended that Vadivel has filed an appeal before the District Court, Erode, challenging the preliminary decree passed by the trial Court in the partition suit.

6. Aggrieved by impugned order dated 18.06.2020, passed by the second respondent, Deepa and her husband Jayaprakasam has filed the present revision petition.



7. On notice, other respondents entered appearance and placed their contentions.

8. Mrs.P.Kritika Kamal, learned Government Advocate (Criminal Side) appearing for the respondents 1 to 4 submitted that the Revenue Officials and the police took custody of the property from Vadivel and locked the premises, since Vadivel's group and Deepa's group were quarrelling.

9. In the opinion of this Court, the impugned order deserves to be set aside on the short ground that the Revenue Officials has no authority to keep a portion of the property under his custody or with the police, in a proceedings under Section 145 Cr.P.C., and that after due enquiry, he is required to hand over the property to the person who was allegedly dispossessed by the aggressor. In this case, the dispute was essentially between the siblings and no regular FIR was even registered by the police. Based on the complaint given by Vadivel, that Deepa is attempting to enter into the property forcibly, the police and the Revenue official have acted in undue haste. It is also stated that the property has not been partitioned by metes and bounds.

10. In such view of the matter, the impugned order deserves to be set aside. This revision petition is allowed and the order dated 08.06.2020 in Na.Ka.No.2159/2020/A2 passed by the Sub Divisional Magistrate /Revenue Divisional Officer, Erode District is set aside. The Revenue official and the police are directed to hand over the keys of the house to Vadivel, the fifth respondent herein, since it was from him the property was taken possession by the officials. It is always open to the police to take appropriate action against anyone who commits breach of peace. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To:

1.The District Collector
Erode District
Erode.

2.The Sub Divisional Magistrate /
Revenue Divisional Officer
Erode District
Erode.

3.The Tahsildar
Kodumudi Taluk
Erode District.



4.The Inspector of Police
Kodumudi Police Station
Kodumudi
Erode District.

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

+1 cc to Mr.M.Guruprasad,advocate,sr.32614

+1 cc to Mr.B.Singaravelu,advocate,sr.32504.

Rsv(co)
krd 5/11

Cr1.R.C.No.542 of 2020