



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.3991 of 2020

and

Crl.M.P. (MD)Nos.2211 and 2212 of 2020

1.M.Ganesan
2.Saravanan
3.Nagarajan

... Petitioners / Petitioners

Vs.

1.Selvaraj
2.M.Subramanian

... Respondents / Respondents

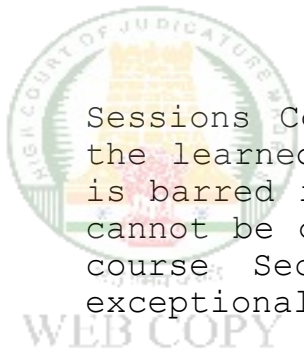
Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to dismissal order dated 19.09.2019 in Cr.R.No.9 of 2018 on the file of the learned I Additional District and Sessions Judge, Tiruchirappalli, confirming the order dated 28.12.2017 made in Moo.Mu.A.3-1528 of 2017 on the file of the learned Sub Divisional Magistrate Cum Revenue Divisional Officer, Lalgudi and set aside the same.

For Petitioners : Mr.M.Siddharthan

O R D E R

The petitioners allege that the path way in question is a public path way and that it is being encroached upon by the respondents herein. With this complaint, the petitioners move the Executive Magistrate/ Revenue Divisional Officer, Lalgudi, by filing a petition under Section 133 of Cr.P.C. The petitioners' complaint was dismissed on the ground that the Civil Court is seized of the matter. Challenging the decision of the Executive Magistrate, the petitioners filed Cr.R.No.9 of 2018 before the learned I Additional District and Sessions Court (PCR), Tiruchirappalli. The learned I Additional District and Sessions Judge (PCR), Tiruchirappalli by order dated 19.09.2019 dismissed the revision case. Questioning the same, this criminal original petition is filed.

2.The petitioners felt aggrieved by the order of the Executive Magistrate and they exhausted the revisional remedy available to them. This revisional remedy can be availed either before the Sessions Court or the High Court. The petitioners chose to move the



Sessions Court. Having suffered a negative result at the hands of the learned Sessions Judge, a second revision before the High Court is barred in terms of Section 397(3) of Cr.P.C. This statutory bar cannot be overcome by taking recourse to Section 482 of Cr.P.C. Of course Section 482 of Cr.P.C., will be available in certain exceptional circumstances. Such circumstances are not present here.

3.It is seen that in this regard O.S.No.162 of 2002, O.S.No.138 of 2002 and O.S.No.406 of 2015 are pending before the learned District Munsif Court, Lalgudi. I am of the view a speedy disposal of the said suits will certainly give a quietus to the issue. Therefore, the learned District Musnif, Lalgudi is directed to dispose of the aforesaid three suit proceedings on merits and in accordance with law within a period of six months from the date of the receipt of a copy of this order.

4.With this direction, this criminal original petition is dismissed. It is made clear that the dismissal of this criminal original petition will not come in the way of the petitioners from establishing their rights in the civil proceedings. It is reiterated that this Court has not gone into the merits of the matter. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To:

1.The I Additional District and Sessions Court,
Tiruchirappalli.

2.The Sub Divisional Magistrate
Cum Revenue Divisional Officer, Lalgudi.

3.The District Munsif,
Lalgudi.

+1 CC to M/s.M.SIDDHARTHAN, Advocate (SR-10107[F]

CrI.O.P (MD)No.3991 of 2020
04.03.2020

ias
SDS (18.03.2020) 2P-5C