



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD).No.17517 of 2015

and M.P.(MD).No.1 of 2015

S.Saravanakumar

.. Petitioner

Vs.

1.The Revenue Divisional Officer,  
Madurai District, Madurai.

2.The Inspector of Police,  
Silaiman Police Station,  
Madurai District.

3.M.Sekar

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents 1 and 2 to complete the proceedings initiated under Section 145 of Cr.P.C., within a stipulated time.

For Petitioner : Mr.K.Viralinathan

For Respondents : Mr.A.Muthukaruppan for R1 and R2  
Additional Government Pleader

**ORDER**

This writ petition is filed for issuing a writ of Mandamus, directing the respondents 1 and 2 to complete the proceedings initiated under Section 145 of Cr.P.C., within a stipulated time.

2.The petitioner states that an extent of 49 cents in S.No.39/5 Pottappanaiyur Village belonged to the petitioner's forefathers and that it is a joint family property. It is further stated that the patta for the said land stands in the name of petitioner's paternal grandfather by name Irulappa Konar along with his brothers. The petitioner's grievance is that the third respondent who is also entitled to a share in the property started construction of a pucca building without there being a partition by metes and bounds. Since the petitioner is a co-owner, he is entitled to a right in respect of the other portions of land. The petitioner states that he lodged a complaint before the second respondent. The case of petitioner before the second respondent has been registered under Section 145 of Cr.P.C in Crime No.356 of 2015 on 19.09.2015. Pursuant to the registration of the complaint, no further action has been taken by the second respondent.



3.The dispute appears that purely civil in nature. The petitioner is a co-owner. Of course, he is entitled to seek partition as he is entitled to exercise his right in every part of land. However, it is not necessary for the petitioner to approach the revenue officials to initiate proceeding under Section 145 of Cr.P.C. He has to establish his right before the Civil Court to seek partition. Even the civil court is competent to grant any interim relief to the petitioner to protect the interest of the petitioner as a co-owner during the pendency of the suit. In such circumstances, a direction in this writ petition to complete proceedings under Section 145 of Cr.P.C only pave way for undesired results instead of resolving the dispute between the parties.

4.Hence, preserving the liberty to the petitioner to approach the civil court for appropriate relief, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

To

1.The Revenue Divisional Officer,  
Madurai District, Madurai.

2.The Inspector of Police,  
Silaiman Police Station,  
Madurai District.

+1 CC to SPL.GP ( SR-3664[F] dated 29/01/2020 )

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