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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.388 of 2021

P.Rajalakshmi

... Petitioner

..vs..

1.The Sub Divisional Magistrate-cum-
Revenue Divisional Officer,
Hosur, Krishnagiri District.

2.The Inspector of Police,
Bagalur Police Station,
Krishnagiri District,
Crime No.336 of 2017.

3.Kantharaj
4.Selvam
5.Sekar @ Rajasekar
6.Manjunath
7.Naveen Kumar
8.Krishnan
9.Ravi
10.Abbayya
11.Chinna Ellamma
12.Rathnamma
13.Venkatesmma
14.Munirathinamma
15.Chinnamma
16.Rajamma
17.Murugan
18.Velmurugan
19.Manjula
20.Mallika
21.Sangeetha
22.Sakuntala
23.Chinnadurai
24.Venkatesh
25.Muniappa

... Respondents

Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C, to set aside the order dated 10.12.2020 passed in Mu.Mu.2942/2020 (B1) on the file of the 1st respondent.



For Petitioner : Mr.K.Govi Ganesan
For Respondents : Mr.S.Sugendran
Government Advocate (Crl.Side)
for R1 & R2

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O R D E R

This Criminal Revision Case has been filed against the order dated 10.12.2020 passed in Mu.Mu.2942/2020(B1) on the file of the first respondent.

2.It is the case of the petitioner that she is the absolute owner of the land measuring to an extent of 872 sq.ft in S.F.No.52/3 situated at Thinnapalli Soodapuram Village, Hosur Taluk, Krishnagiri District, by virtue of registered Sale Deed dated 26.02.2016. Ever since she is in absolute possession and enjoyment of the said property. On 21.11.2018, while the petitioner dug foundation for constructing a house, some persons prevented the same and also abused her in unparliamentary language. Subsequently, the second respondent/police registered a case in Crime No.336 of 2017 against the petitioner and the same was referred to the first respondent for enquiry and proceedings were initiated under Section 145 Cr.P.C. Thereafter, the first respondent conducted an enquiry and by his proceedings dated 10.12.2020 observed that there was a dispute regarding title and possession over the property and hence, directed the parties to approach the Civil Court to resolve their dispute. Challenging the said order, the petitioner is before this Court by way of filing the Criminal Revision Case.

3.The learned counsel for the petitioner would submit that the first respondent did not understand the scope and object of Section 145 Cr.P.C. He would further submit that as per Section 145 Cr.P.C., the Executive Magistrate/the first respondent herein has to satisfy from a report of a police officer or upon other information that a dispute likely to cause a breach of the peace exists concerning any land or water, should make an order in writing upon satisfied and require the parties to attend the Court and to put in written statements of their respective claims with regard to the dispute. However, without going into the scope under Section 145 Cr.P.C., the first respondent, instead of ascertaining the actual possession, date of dispute and the complaint, only based on the submissions made by both the parties erroneously referred the wrong provisions under Section 4 (4) of Patta Pass Book Act. Therefore, the impugned order passed by the first respondent is not in accordance with the provisions under Section 145 Cr.P.C, which warrants interference of this Court and hence, the same is liable to be set aside.

4. The learned Government Advocate (Crl.Side) appearing for the respondents 1 and 2 would submit that the second respondent/police registered the case in Crime No.336 of 2017 under Section 145 Cr.P.C against the petitioner and the



complaint was referred to the first respondent for enquiry. The said proceedings were pending before the first respondent, since law and order problem arose between parties, the Tahsildar, Hosur, conducted a peace meeting on 12.01.2018. Thereafter, after issuing summons to both the parties, the first respondent conducted the enquiry and found that there was a property dispute between the parties and directed the parties to approach the competent Civil Court for appropriate remedy. However, without approaching the competent Civil Court, the petitioner has come forward with the present Criminal Revision Case. Hence, there is no merit in this case and the same is liable to be dismissed.

5. Admittedly, based on the complaint received from the private respondents, the second respondent/police registered the case in Crime No.336 of 2017 against the petitioner and the same was referred to the first respondent for enquiry. Thereafter, the first respondent initiated proceedings under Section 145 Cr.P.C. The first respondent after issuing summons to both the parties also made an enquiry with the Village Administrative Officer and found that there was a dispute regarding property and therefore, directed the parties to approach Civil Court to resolve their dispute.

6. As rightly pointed out by the learned counsel for the petitioner, wrong provisions have been quoted in the said impugned order and the quoting of provisions under Patta Proceedings Act by the first respondent is unwarranted. As per Section 145 Cr.P.C., the first respondent has to ascertain that any party has been forcibly and wrongfully dispossessed within a period of two months, next before the date on which the report of a police officer or other information was received by the Magistrate. However, without ascertaining the same, the first respondent passed the impugned order.

7. On a careful perusal of the records and the submissions made by the learned counsel on either side, this Court finds that there was a dispute between the parties regarding title and possession of the property. Even though the order passed by the first respondent/Magistrate is beyond the scope of Section 145 Cr.P.C., and no prejudice would be caused to the petitioner herein. According to the Revision Petitioner, there was no title and possession dispute and the private respondents are disturbing her to construct the house in the said land. If at all, the petitioner's grievance is genuine, she should have approached the competent Civil Court for bare injunction. However, without approaching the Civil Court to agitate the matter, the petitioner approached this Court by way of filing writ petition in W.P.No.2074 of 2020 and this Court by order dated 05.03.2020 directed the first respondent to complete the proceedings and dispose of the matter as early as possible. Hence, the first respondent after completing the proceedings passed final order on 10.12.2020. Further, the petitioner did not want to approach the Civil Court to resolve the matter, but, in one way or other way, she wanted to get



the relief either from the respondent/police or from the Revenue Divisional Officer. It seems that the petitioner has not come to the Court with clean hands and hence, she is not entitled for any relief as sought for in this Criminal Revision Case.

8. In the light of the above facts and circumstances, this Criminal Revision Case is disposed of. However, liberty is granted to the petitioner to work out his remedy before the competent Civil Court in the manner known to law.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To

1. The Sub Divisional Magistrate-cum-
Revenue Divisional Officer,
Hosur, Krishnagiri District.

2. The Inspector of Police,
Bagalur Police Station,
Krishnagiri District,

3. The Public Prosecutor,
High Court, Madras.

Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.K.Govi Ganesan, Advocate SR.No.27943

Cr1.R.C.No.388 of 2021

UM(CO)
GMY(16/07/2021)