



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Cr1.O.P.No.22333 of 2018

and

Cr1.M.P.No.12367 of 2018

Murugaiyan

... Petitioner / B Party

Vs.

1.The Executive Magistrate cum Sub collector,
Sub Collector Office,
Tirupur,
Tiruppur District.

2.The Deputy Superintendent of Police,
Palladam Division,
Tiruppur District.

3.The Inspector of Police,
Avinashpalayam P.S.,
Tiruppur District.

... Respondents 1 to 3 / Respondents

4.R.Natarajan

5.N.Jayanthi

... Respondents 4 & 5 / A Party

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to Na.Ka.No.2132/2018/A1 dated 08.06.2018 on the file of the Executive Magistrate cum Sub Collector, Tiruppur and Set aside the same.

For Petitioner : Mr.A.Thiyagarajan

For R1 to R3 : Mr. C.E.Pratap
Government Advocate (Cr1.Side)

For R4 & R5 : Mr.G.Ethirajulu



O R D E R

The present petition has been filed to call for the records relating to Na.Ka.No.2132/2018/A1 dated 08.06.2018 on the file of the Executive Magistrate cum Sub Collector, Tiruppur and Set aside the same.

2. The case of the petitioner is that the petitioner had purchased an agricultural land in S.F.No.450/1B, admeasuring an extent of 4.42 ½ acres with a farm house in Perunthozhuvu Village, Tiruppur South Taluk. In the said property, there was a rival civil dispute and the same is pending in O.S.No.486 of 2012, on the file of the District Munsif Court, Tiruppur and at the instance of the residents of that locality, there was a complaint before the law enforcing agency as if there was a law and order problem and apprehension of public tranquility and therefore, the Sub Divisional Magistrate cum Sub Collector, Tiruppur, has initiated proceedings under Section 145 Cr.P.C, and given a finding that the property was belong to the petitioner and challenging the said order, the opposite parties, namely, Natarajan and Jayanthi, had filed CrI.R.C.No.962 of 2017. This Court, vide order dated 09.08.2017, had allowed the said Criminal Revision Petition and quashed the proceedings of the Sub Divisional Magistrate cum Sub Collector, Tiruppur. Even thereafter, the 1st respondent proceeded the matter by invoking the provisions of Section 107 Cr.P.C and passed the order to maintain Status Quo prevailing as prior to 23.05.2018, with regard to S.F.NO.450/1B, Perunthozhuvu Village, Tiruppur South Taluk and with further direction that no alterations to be made in the disputed property till the case in O.S.No.468 of 2012, on the file of the District Munsif Court, Tiruppur, got finally decided. Challenging the said order of the 1st respondent, the petitioner is before this Court by way of this petition.

3. The learned counsel appearing for the petitioner submitted that though the 1st respondent has vested with powers under Section 107 Cr.P.C, prior to the issuance of the impugned order, he has to provide opportunity to the parties by issuing show cause notice, asking them as to the execution of bond for not involving in public tranquility for the particular period. In the present case on hand, the 1st respondent has passed the impugned order without following the due process of law as contemplated under Section 107 Cr.P.C and hence prays for



quashment of the proceedings, dated 08.06.2018, issued by the 1st respondent.

4. The learned counsel appearing for the respondent has fairly conceded the arguments advanced by the learned counsel appearing for the petitioner in not issuing show cause notice to the parties.

5. It is not in dispute that admittedly there is a civil dispute between the parties and the same is pending on the file of the competent Civil Court in O.S.No.468 of 2012 and it appears that in order to maintain the public tranquility and public peace in the locality, initially the Sub Divisional Magistrate cum Sub Collector, Tiruppur, has initiated proceedings under Section 145 Cr.P.C and it was challenged before this Court in CrI.R.C.No.962/2017 and vide order dated 11.07.2017, this Court had quashed the proceedings of the said official and even then, the 1st respondent herein has once again invoked the provisions of Section 107 Cr.P.C., and passed the impugned order. This Court has perused the impugned order as well as the provisions available under Cr.P.C. For better appreciation it is relevant to extract Section 107(1) Cr.P.C.:

'107. Security for keeping the peace in other cases;

(1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility and is of opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.'

6. In the present case on hand, the 1st respondent has failed to provide opportunity to the parties as contemplated under Section 107 Cr.P.C, and no show cause notice as to the execution of bond, was issued to the parties, prior to the issuance of the impugned order, which is clear violation of Section 107 Cr.P.C. Hence, I have no hesitation to quash the



proceedings of the 1st respondent.

7. For the reasons aforesaid, this Criminal Original Petition is allowed and proceedings in Na.Ka.no.2132/2018/A1 dated 08.06.2018 on the file of the Executive Magistrate cum Sub Collector, Tiruppur, is set aside. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Executive Magistrate cum Sub collector,
Sub Collector Office,
Tiruppur,
Tiruppur District.

2.The Deputy Superintendent of Police,
Palladam Division,
Tiruppur District.

3.The Inspector of Police,
Avinashpalayam P.S.,
Tiruppur District.

+1cc to M/s.A.Thiyagarajan, Advocate, S.R.No.43741

+1cc to M/s.G.Ethirajulu, Advocate, S.R.No.43957

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and
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SJ(C0)
SB(05/10/2021)