

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2021

CORAM

THE HONOURABLE MR. JUSTICE P. VELMURUGAN

Crl.R.C. No. 972 of 2020

and

Crl.M.P. No. 6779 of 2020

1. K.J.Thomas
S/o. K.S.Joseph
Koonthamattam House,
Pious Mount PO,
Kottayam, Kerala.
2. Sunny Thomas,
S/o. K.J.Thomas,
D.No.6/25A, Koonthamattil House,
Middle Gudalur, Gudalur Post,
Gudalur Village, Gudalur Tk.,
The Nilgiris Dt. T.N. Petitioners

Versus

1. Sub-Divisional Magistrate,
Revenue Divisional Officer,
Gudalur, Nilgiris Dt.
2. M.G.Antony,
S/o. George,
No.6/16, B3D91 P.K.Street,
Middle Gudalur, Gudalur,
The Nilgiris-643 211.
(R2 impleaded as per order in
Crl.M.P.No.8276 of 2020 in
R.C. No.972 of 2020, dt. 16.12.2020) ... Respondents

PRAYER: Criminal Revision Petition is filed under Section 397 r/w 401 Criminal Procedure Code, praying to call for the records in Section 133 of Crl.P.C. proceedings in RC.B1/2609/2020 and set aside the notice dated 08.10.2020 on the file of Court of the Sub-Divisional Magistrate, Gudalur, Nilgiris Dt.

For Petitioners	: Mr.S.Manuraj
For Respondents	: Mr.R.Suryaprakash, Govt. Advocate for R1 M/s. S.Valarmathi for R2

O R D E R

The 1st respondent has issued a notice under Section 133 of Cr.P.C. Challenging the said notice, the petitioner is before this Court by filing this Criminal Revision Petition seeking to call for records in Section 133 of Cr.P.C. Proceedings in RC.B1/2609/2020.

2. The main contention raised by the learned counsel appearing for petitioner is that the notice under Sec.133 of Cr.P.C. has been issued without giving any opportunity to the petitioners and straight away, they have been directed to hand over the land. Therefore, the petitioners have sent a reply to the said notice and also filed this Criminal Revision Petition challenging the said notice.

3. The learned Government Advocate appearing for 1st respondent would submit that the disputed land has been marked for public road in Survey No.1061/1, at Pillaiyar Koil Street, Middle Gudalur, Gudalur-2 village for development of basic public amenities. The petitioners have agreed to surrender the land and the 1st respondent has also made thorough enquiry. Therefore, due opportunity was given to the petitioners. Hence, he prays for dismissal of this Criminal Revision Petition.

4. The mere reading of the notice itself would show that there was no reference relating to the earlier proceedings and there is no reference to the earlier notice sent to the petitioners. On further reading of para 3 of the notice itself would show that the 1st respondent has straight away directed the petitioner to hand over the land, failing which, the land acquisition proceedings would be initiated. Therefore, on perusal of notice, earlier, the 1st respondent has not given any opportunity to the petitioners. Hence, the notice dated 08.10.2020 issued by the 1st respondent is liable to be set aside. Accordingly, it is set aside. However, the 1st respondent is directed to issue fresh notice in accordance with law under Section 133 of Cr.P.C. after giving sufficient opportunity to the petitioner, and they can proceed further in accordance with law. The petitioners are directed to co-operate with the proceedings to be initiated by the 1st respondent. Hence, the disputed land has been marked to form a public road to safeguard the interest of the public. Considering the facts and circumstances, the petitioners are directed to co-operate for the proceedings to be initiated by the 1st respondent under Section 133 of Cr.P.C.

5. With the above direction, the impugned notice dated 08.10.2020 vide Proceedings in RC.B1/2609/2020 issued by the 1st respondent is set aside. The 1st respondent is at liberty to issue a fresh notice and initiate proceedings under Section 133

of Cr.P.C. immediately and to proceed further in accordance with law. Accordingly, this Criminal Revision Petition is disposed of and consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS.VI)

/True Copy/

Sub Assistant Registrar

To

1. The Sub-Divisional Magistrate/
Revenue Divisional Officer,
Gudalur, The Nilgiris District.

2. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.S.Manuraj, Advocate SR.NO.4990

+lcc to Mr.S.Valarmathi, Advocate SR.NO.4968

AKM/25.02.21/ 3P-5C/

Cr1.R.C. No. 972 of 2020
29.01.2021

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