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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1125 of 2019

1.D.Selvam

2.D.Babu

... Petitioners

vs.

1. The First Class Executive Magistrate
Revenue Divisional Officer
Arni - 632 301.

2. The Executive Magistrate
Tahsildar, Arani Taluk,
Arani - 632 301.

3. The Inspector of Police
Arni Town Police Station
Arni - 632 301.

4.D.Raja

5.D.Ravi

6.R.Srinivasan

... Respondents

PRAYER: This Criminal Revision is filed under Sections 397 and 491 of Criminal Procedure Code, to set aside the order dated 24.09.2018 passed in Crl.M.P.No.1 of 2018 on the file of First Class Executive Magistrate/The Revenue Divisional Officer, Arni.

For Petitioners : Mr.R.Karthikeyan

For R1 to R3 : Mr.S.Sugendran
Government Advocate (Crl.Side)

O R D E R

The present criminal revision has been filed to set aside the order dated 24.09.2018 passed in Crl.M.P.No.1 of 2018 on the



file of First Class Executive Magistrate/The Revenue Divisional Officer, Arni.

2. The case of the petitioners is that the dispute between the petitioners and the respondents 4 to 6, in which the petitioners are A parties and the respondents 4 to 6 herein are B parties. Based on the report filed by the 3rd respondent herein, the 2nd respondent after enquiry passed the order. Challenging the said order, the respondents 4 to 6 filed an appeal before the 1st respondent. The 1st respondent by an order dated 24.09.2018 passed the impugned order. Challenging the said order, now the petitioners as A parties in the proceedings before the 2nd respondent filed the present revision before this Court.

3. Learned counsel for the petitioners would submit that since there was a dispute between A and B parties viz., the petitioners and the respondents 4 to 6 herein. Based on the report filed by the 3rd respondent, the 2nd respondent after enquiry passed the order. Aggrieved with that order, the aggrieved party can file only revision before this Court, there is no further appeal before any Executive Magistrate/the 1st respondent herein. Whereas, aggrieved with the order passed by the 2nd respondent, the respondents 4 to 6 filed appeal before the 1st respondent. The 1st respondent without any jurisdiction, passed the impugned order. Therefore, the 1st respondent has no jurisdiction to entertain the appeal against the order passed by the 2nd respondent. Therefore, the impugned order is perverse without any jurisdiction and the same is liable to be dismissed.

4. Learned Government Advocate (Crl.Side) appearing for the respondents 1 to 3, has fairly conceded the legal position.

5. Heard both sides and perused the materials available on record.

6. Admittedly, there was a dispute between the petitioners and the respondents 4 to 6. The petitioners herein are A parties and the respondents 4 to 6 are B parties in the said proceedings before the 2nd respondent. The 2nd respondent, after enquiry, passed the order, if at all the respondents 4 to 6 aggrieved with the order of the 2nd respondent, can file revision before this Court. But however, they filed only appeal before the 1st respondent. The 1st respondent without jurisdiction, entertained the appeal and passed the impugned order, which is unknown to the provisions under Section 145 of Cr.P.C., and therefore, the impugned order dated 24.09.2018 passed by the 1st respondent is set aside and if at all the A and B parties are aggrieved with the order of the 2nd respondent and they can workout their remedies in the manner known to law not by way of appeal before



the 1st respondent.

7. Accordingly, the criminal revision is allowed with the above observation.

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Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

dm

To

1. The First Class Executive Magistrate/
Revenue Divisional Officer, Arni.
2. The Executive Magistrate
Tahsildar, Arani Taluk,
Arani - 632 301.
3. The Inspector of Police
Arni Town Police Station
Arni - 632 301.
4. The Public Prosecutor,
High Court, Madras.

+2ccs to M/s.R.Karthikeyan, Advocate, S.R.No.41338

Cr1.R.C.No.1125 of 2019

LN(CO)
SU(20/09/2021)