



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 26.02.2021

Delivered On : 25.03.2021

CORAM

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C. (MD)No.65 of 2021

and

Crl.M.P. (MD)No.913 of 2021

M.Sheik Dawood

.. Petitioner/B Party

Vs.

1.The Revenue Divisional Officer,
O/o. Revenue Divisional Office,
Madurai.

2.The Inspector of Police,
Anna Nagar Police Station,
Madurai City.

.. Respondent/Complainant

3.V.Vinoth Pandiyan .

.. Respondent/A Party

Prayer : This criminal revision case filed under Section 397 r/w. Section 401 of Criminal Procedure Code to call for the records pertaining to the order in Moo.Mo.No.7652/2020/C, dated 30.12.2020, on the file of the Respondent No.1 and set aside the same.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mrs.S.Bharathi

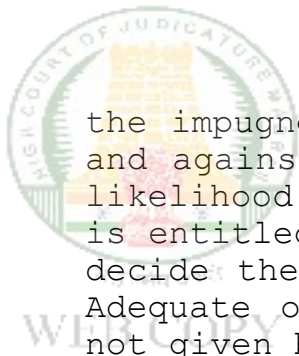
Government Advocate for R1 & R2
: Mr.Veerakathiravan, Senior Counsel
for M/s. Veera Associates for R3

ORDER

This Criminal Revision Case has been filed to set aside the order, dated 30.12.2020, made in Moo.Mo.No.7652/2020/C on the file of the first respondent.

2.On the basis of the complaint in Complaint No.624 of 2020, the second respondent sent a report in Crime No.1872 of 2020 under Section 145 Cr.P.C. before the first respondent. The first respondent enquired both the parties and passed an order, to cancel the patta for Ward No.XVIII (18), Block No.4, T.S.No.18 in the name of P.Karundhan and to restore the original entry in the name of V.Karandhan in the revenue records under Section 145 (1) Cr.P.C. Against the same, the petitioner filed this Revision.

3.On the side of the revision petitioner, it is stated that



the impugned order under Section 145(1) Cr.P.C. is devoid of merits and against the materials facts of evidence. Only when there is a likelihood of breach of peace in that locality, the first respondent is entitled to take proceedings under Section 145 Cr.P.C. He cannot decide the title or cancel the patta under Section 145 of Cr.P.C. Adequate opportunity for the petitioner to represent the case was not given by the first respondent. Proper enquiry was not conducted by the first respondent. The first respondent has cancelled the patta, which is beyond the scope of Section 145 Cr.P.C. and the first respondent has passed an order as if the proceedings are under the Patta Passbook Act.

4.The learned counsel for the petitioner relied on the Judgment of the Hon'ble Supreme Court in the case of **Shanti Kumar Panda Vs. Shakuntala Devi** reported in **(2004) 1 SCC 438**, wherein, it is stated as follows:

"(3). A decision by a criminal Court does not bind the civil Court while a decision by the civil Court binds the criminal Court. An order passed by the Executive Magistrate in proceedings under Section 145/146 of the Code is an order by a criminal Court and that too based on a summary enquiry. The order is entitled to respect and wait before the competent court at the interlocutory stage. At the stage of final adjudication of rights, which would be on the evidence adduced before the Court, the order of the Magistrate is only one out of several pieces of evidence."

5.On the side of the revision petitioner, it is further stated that the petitioner is in occupation of the disputed land, and that the third respondent is residing opposite to the petitioner's property for the past 11 years. He is suddenly trying to dispossess the revision petitioner with the help of the revenue officials and police. The property originally belonged to one Bhakiyam and the third respondent is claiming to be her son. The sale price given by the revision petitioner at the time of sale is Rs.27,00,000/- which is is not nominal rate. Only on consideration, the revision petitioner purchased the property. Instead of a direction to file a civil suit, the Revenue Divisional Officer passed an order to cancel the patta and initiated action under the Land Grabbing Act. The Revenue Divisional Officer cannot decide the ownership of a property in a proceedings under Section 145 Cr.P.C. and prayed the impugned order to be set aside.

6.On the side of the respondent, it is stated that the petitioner is a land grabber and he created fabricated documents and dispossessed the third respondent, who belonged to the Scheduled Caste community and the possession was taken by way of fraudulent documents. Originally, the Survey No. 5/3C with an extent of 23 cents is in the name of one Karandhan. The Adangal extract stands in



the name of P.Karandhan, who is the grand-father of the third respondent. The revenue records from fasli 1384 to 1388 stood in the name of P.Karandhan. The petitioner's wife purchased the property from one Sivanammal and not from Karandhan, who is the owner of the property. The document was created in Kerala in the name of Sivanammal. Bhakiyam, Son of Karandhan is no way connected with the property. A general power of attorney was executed by one Bhakiyam S/o.Karandhan. Instead of Bhakiyam Son of Karandhan, some other Karandhan was used for creating the documents. The power agent is the Manager of Shake Dawood and the said Shake Dawood is a witness in the power deed. The said Bhakiyam Son of Karandhan has given a statement before the Revenue Divisional Officer that the concerned does not belong to them. The revision petitioner is claiming to have a joint patta in Patta No.1110, but, there is no such patta in the revenue records. There was no reference to patta No.1110 in the subsequent sale deed. Only the original patta number was used. By creating two fabricated general power of attorney deeds, the property worth more than Rupees Ten Crores was grabbed by the revision petitioner. The tenant of the said Shake Dawood wants to park the two wheelers in the vacant site. The property is a vacant site. Only after verification of the records, the Revenue Divisional Officer has passed the impugned order. The Revenue Divisional Officer did not pass any order to alter the patta. Patta already stands in the name of the respondent and only in Town Survey Number, some other name was wrongly registered. The Revenue Divisional Officer has passed an order only to restore the original entry. The revision petitioner has to approach the civil Court and the revision petitioner is not entitled to approach this Court. If the impugned order is set aside, the proceedings initiated under the Land Grabbing Act, on the report of the Revenue Divisional Officer will get affected and prayed the revision petition to be dismissed.

7.It is seen that there is a property dispute between the revision petitioner and the third respondent. A perusal of the impugned order reveals that the first respondent has treated the complaint as a complaint under the Patta Passbook Act and passed a detailed order for cancellation of patta and has decided the title, which cannot be done in a proceeding under Section 145 (1) Cr.P.C. The submissions on the side of the 'A' party and 'B' party as mentioned in the impugned order reveals that there was no imminent danger to peace and tranquility in that locality.

8.In the above circumstances, the impugned order exceeds the power of the first respondent under Section 145 (1) Cr.P.C. Hence, the impugned order, dated 30.12.2020, made in Moo.Mo.No.7652/2020/C on the file of the first respondent is hereby set aside. Both the parties can settle their issue before the proper Forum in accordance with law.

9.With the above observation, this Criminal Revision Case is



allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

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/ /2021

Sub Assistant Registrar(CS)

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Revenue Divisional Officer,
O/o. Revenue Divisional Office,
Madurai.
- 2.The Inspector of Police,
Anna Nagar Police Station,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-13601[F] dated 25/03/2021)

Crl. R.C. (MD) No.65 of 2021
25.03.2021

ES (CO)

KB(08.04.2021) 4P 5C