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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 18.08.2021

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THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Cr1.RC(MD)No.371 of 2021

and

Cr1.MP(MD)No.3803 of 2021

1.Anandan @ Ramasamy
2.Anbalagan
3.Tamilarasan @ Rasu

: Petitioners/B-Party

Vs.

1.The Sub Divisional Magistrate and
Revenue Divisional Officer,
Illupoor,
Pudukottai District.

2.The Inspector of Police,
Keeranur Police Station,
Pudukkottai District.

: Respondents 1 and 2

3.Ravichandran
4.Gokulraja
5.Krishnaraja
6.Lenin

: R3 to R5/A-Party

(R6 impleaded as per order,
dated 29.07.2021 made in
Cr1.MP(MD)No.4654 of 2021
in Cr1.RC(MD)No.371 of 2021)

Prayer: Criminal Revision filed under section 397 r/w 401 of the Code of the Criminal Procedure against the order of the 1st respondent, dated 03.11.2020 signed on 08.01.2021 made in MC No.143/2020/A1 and setaside the same.

For Petitioners : Mr.Aayiram K.Selvakumar

For R1 and R2 : Mr.RMS.Sethuraman

Standing Counsel for State (Cr1. Side)

For R3 to R5 : R.Paranjothi

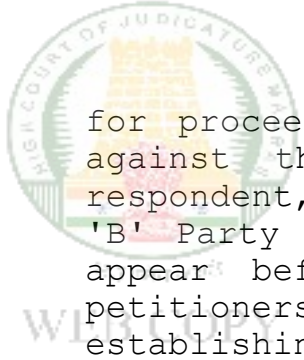
For 6th Respondent : Mr.N.Balakrishnan

O R D E R

This Criminal Revision is directed against the order of the 1st respondent, dated 03.11.2020 made in MC No.143/2020/A1.

2.It reveals from the records that the 1st respondent has taken cognizance on the information forwarded by the 2nd respondent

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for proceedings under section 145 of the Criminal Procedure Code against the petitioners and based on the report of the 2nd respondent, issued summons to the petitioners herein showing them as 'B' Party and the respondents 3 to 5 as 'A' Party and ordered to appear before them. After enquiry by the 1st respondent, the petitioners submitted their objection with documents for establishing their right over the property. However, the 1st respondent has passed the impugned final order in the proceedings in MC No.143/2020/A1, dated 03.11.2020. Aggrieved by the said order, the petitioners are before this court.

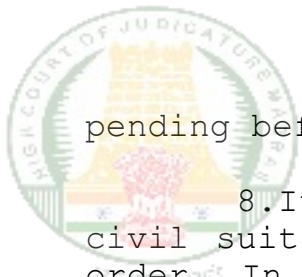
3. Heard both sides and perused the materials available on record.

4. The main contention raised on the side of the petitioners is that section 145 of the Criminal Procedure Code is meant to create interim arrangement and the interim relief cannot be exhausted by deciding the larger issues, which can be exclusively dealt with and decided by the Civil Court and the fact that question of disputed land regarding partition is pending before this court in A.S No.149 of 2015 and by ignoring the above fact, the order passed by the 1st respondent is highly un-sustainable and prays that the Criminal Revision has to be allowed.

5. On the other hand, the learned counsel appearing for the respondent 3 to 5/A-Party submitted that the suit properties are self-acquired properties of one Ramasamy Konar and after the death of Ramasamy Konar, his legal heirs were enjoying the suit properties and the suit properties stood in the name of Kumarasamy Konar as Manager, who was the son of the deceased Ramasamy Konar and then, the Kumarasamy Konar tried to swallow the suit properties, since the suit properties stood in his name as a Kartha of the joint family and the wife of Nataraja Konar filed O.S No.48 of 2012 on the file of the Principal District Court, Ramanathapuram, for partition and the above suit was decreed and against that order, A.S No.149 of 2015 was preferred before this Court and that these petitioners are trying to obstruct them and other family members from doing cultivation and the suit properties are joint family properties and the 1st respondent after due enquiry, has passed the order to bring peace between the parties and to maintain law and order and prays that the Criminal Revision may be dismissed.

6. The learned counsel appearing for the 6th respondent submitted that only after due enquiry, the 1st respondent passed the impugned order to maintain peace and also law and order and hence, it is not necessary to interfere into the findings given by the 1st respondent and prays that the Criminal Revision may be dismissed.

7. It is admitted on both sides that in respect of the suit properties, the wife of Nataraja Konar filed O.S No.48 of 2012 and the suit was decreed and against that order, AS No.149 of 2015 is



pending before this court.

8. It is settled law that when in respect of the property civil suit is pending, the Revenue Court has no right to pass any order. In this case, it was brought to the knowledge of the 1st respondent that in respect of the suit property, AS No.149 of 2015 is pending before this court. But however, without appreciating the fact that with regard to the disputed land, suit for partition was filed and it was decreed and against that order, A.S No.149 of 2015 is pending before this court, the 1st respondent has passed the impugned final order.

9. The Hon'ble Apex Court, in number of cases held that when in respect of disputed property, civil suits were pending, the Revenue Court has no right to pass any orders. In this case also, in respect of the suit property, the appeal is pending before this Court. Under these circumstances, the 1st respondent has no right to pass the final order. It is to be stated that the Revenue Court has right to create interim arrangement, but it has no right to pass final orders, since civil dispute is pending before the civil forum. For all the reasons stated above, it is necessary to interfere into the impugned order, dated 03.11.2020 passed by the 1st respondent.

10. In that view, this criminal revision is allowed. The impugned order, dated 03.11.2020 passed by the 1st respondent is set aside. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Sub Divisional Magistrate and
Revenue Divisional Officer,
Illupoor,
Pudukottai District.

2. The Inspector of Police,
Keeranur Police Station,
Pudukkottai District.

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3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.BALAKRISHNAN, Advocate (SR-26708[F] dated 18/08/2021

Cr1.RC (MD) No.371 of 2021
18.08.2021

MA (CO)
KB (15.09.2021) 4P 5C