



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 18.01.2021

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.536 of 2020

and

Crl.M.P.(MD)No.4755 of 2020

T.Ravichandran

.. Petitioner / 'B' party

Vs.

1.The Sub Divisional Magistrate and
Revenue Divisional Officer,
O/o.the Revenue Divisional Officer,
Madurai.

2.The Inspector of Police,
Oomatchikulam Police Station,
Madurai

(In Crime No.168 of 2018) .. Respondents 1 & 2 / Complainants

3.Ashokan .. 3rd Respondent / 'A' party

4.Muthu Vijayan .. 4th Respondent / 'B' party

Prayer : This criminal revision case is filed under Section 397 r/w Section 401 of Cr.P.C., to call for the records pertaining to the impugned order in Moo.Mu.No.5383/2018/C, dated 09.03.2020 passed by the first respondent and to set aside the same as illegal.

For Petitioner

: Mr.S.M.A.Jinnah

For Respondents

: Mrs.S.Bharathi
Government Advocate
for R1 and R2

: Mr.M.Muthukumaran for R4

: Mr.S.Manoharan for R3

ORDER

This revision has been filed to set aside the impugned order in Moo.Mu.No.5383/2018/C, dated 09.03.2020 passed by the first respondent.

2.On the side of the revision petitioner, it is stated that <https://hccivils.court.gov.in/cases/> is a likelihood of breach of peace, the provision



under section 145 Cr.P.C., can be invoked by the respondent. The first respondent has not made any reference to the merit of the claim and the first respondent has to record the statement of witnesses, hear the parties, receive all the evidences and to follow the procedure prescribed under Section 145 Cr.P.C. The petitioner produced all the documents related to the property. However, without considering those documents, the first respondent arbitrarily passed the impugned order. Without recording sufficient grounds or reasons for the decision and without considering that the patta was already mutated in the name of the earlier owner of the property, the first respondent has suddenly concluded that the property is a temple property. The first respondent has no authority to decide the title in a proceedings under Section 145 Cr.P.C. and prayed the impugned order to be set aside.

3.On the side of the first and second respondents, it is stated that on 20.07.2018, around 3.00 p.m., when the second respondent police was patrolling near Alandur, he received an information that the petitioner and the third respondent were quarrelling regarding the title over the property in Survey No.4, with an extent of 65 cents and that they came to know that both of them frequently enter into quarrel and they used to lodge complaints and those complaints are registered in C.S.R.Nos.76 of 2018 and 78 of 2018 and the petitions are pending. Since there was a law and order problem and since there was disturbance to the public tranquility, the second respondent registered a case in crime No.168 of 2018 under section 145 Cr.P.C. and referred the same to the first respondent.

4.The claim of the third respondent is that he was the son of Mathiyapidaran, who was the Trustee of Muniyandi Kovil and he claimed that the alleged property belong to one Ayyanar Kovil and that the fourth respondent was trying to put up a temporary shed in the temple property and hence, the third respondent preferred a complaint. The petitioner claiming himself as the owner of the property produced some records to support his claim. The Village Administrative Officer produced the revenue records, wherein, it was found that the said land was registered in the name of Ayyanar Kovil. After receiving the F.I.R., the first respondent issued summon to both the parties and conducted enquiry on 07.03.2019, 24.06.2019, 08.07.2019, 05.09.2019, 27.09.2019, 11.11.2019 and on 02.12.2019 and after providing equal opportunity to both the parties and after perusing the records, the first respondent rightly concluded that the alleged land belong to the Ayyanar Kovil and passed the impugned order.

5.On the side of the revision petitioner, it is stated that the property was purchased by Periyakarupan on behalf of minor

Nachammal and hence, the property originally belong to her. Subsequently, the said Periyakarupan sold the property on behalf of the minor Nachammal to one Venkatesan on 29.05.1981. The petitioner purchased the property from the said Venkatesan on 20.12.1996 and the chitta was in the name of Periyakarupan. The Village Administrative Officer has given a certificate that there is no tax pending from the petitioner. Without perusing all those documents, the first respondent has passed the impugned order and the first respondent has no *locus standi* to decide the title.

6.On the side of the third respondent, it is stated that the first respondent has issued notice to both the parties and he enquired both the parties and the Village Administrative Officer, Alandur, He perused the revenue records Patta for the disputed land stands in the name of Ayyanar Kovil. The settlement 'A' register, chitta and all other revenue records are in the name of Ayyanar Kovil and the petitioner has never enjoyed the land and the land never belong to the petitioner. The revision petitioner has not taken any steps to cancel the entries in the revenue records or to modify the revenue records from 1996 onwards. Nobody has a right to stay in the temple land even if a sale deed was executed. The temple belonging to the village and all the villagers are entitled to worship and offer their prayer. The third respondent has not claimed any title and he is not fighting for his personal use and possession and he is fighting only in the interest of the villagers and prayed the petition to be dismissed.

7.On the side of the fourth respondent, it is stated that there was a civil dispute between the third respondent and the petitioner regarding survey No.4 with an extent of 65 cents in Alandur village. The above property was purchased by one Sethulakshmi on 19.05.1975 through a registered sale deed. Subsequently, she executed a sale deed in favour of minor Nachammal, through a sale deed, dated 21.08.1978. Tax was paid and the same was acknowledged by the village administrative officer. Chitta was mutated in the name of Nachammal through her guardian Periyakarupan. The petitioner leased out the property to the fourth respondent. The fourth respondent is a tenant in the property and he was enjoying the property and the first respondent failed to appreciate all those things and arbitrarily passed the impugned order. The fourth respondent has to be evicted only under due process of law and prayed the petition to be dismissed.

8.It is seen that there is a dispute regarding the title of the said property. The petitioner is claiming title through sale deeds from the year 1975. The third respondent is claiming that the property belong to a temple and to the villagers in total. It is seen that the first respondent has issued notice to both the parties and conducted enquiry. It is seen that in the revenue



records, the said property was mentioned as "Ayyanar Kovil property" and was mentioned as 'Tharisu' in the Adangal.

9.It is seen that the village administrative officer has issued certificate that the petitioner was in possession and at the same time, the village administrative officer has produced Adangal before the first respondent that the property was kept 'Tharisu'. Hence, the statement of the village administrative officer cannot be taken into consideration. It is seen that the dispute is with regard to the title and is a civil dispute. The first respondent cannot decide the title of the property. But, since there was a law and order problem, the second respondent has referred the matter to the first respondent. Under Section 145 (6)(a) Cr.P.C., the first respondent is entitled to declare a particular party as entitled to be a possession.

10.The petitioner as well as the respondents 3 and 4 have to approach the civil Court to establish their right after impleading the Revenue Department and the third respondent as parties. Since, the property is mentioned as Tharisu, nobody can claim to be in possession of the property. The impugned order is not valid with regard to the decision regarding title. The petitioner as well as the third and fourth respondents cannot claim any right unless they prove their claim before the proper Forum.

11.With the above observation, this Criminal Revision Case is disposed of. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Ls

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,
O/o.the Revenue Divisional Officer,
Madurai.

2.The Inspector of Police,
Oomatchikulam Police Station,
Madurai

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

+1 CC to M/s.M.MUTHUKUMARAN, Advocate (SR-1246[F] dated
19/01/2021)

Crl. R.C.(MD)No.536 of 2020
18.01.2021

SJ(CO)

TR(16.02.2021) 5P 5C