



Crl.R.C.No.1091 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

**Crl.R.C.No.1091 of 2022 &
Crl.M.P.No.12315 of 2022**

1.C.Gurusamy
2.Mariammal
3.C.Marimuthu
4.N.Chinnasamy
5.Gurusamy
6.A.Senrayan
7.P.Ranganathan

...

Petitioners

Vs.

1.R.Suseela
2.C.Palanisamy
3.The State,
Rep. by Inspector of Police,
District Crime Branch,
Erode District.
(Cr.No.12 of 2010)

...

Respondents

This Criminal Revision case has been filed under Sections 397 r/w 401 of Code of Criminal Procedure to call for the records and set aside the order dated 12.01.2021 made in Crl.R.P.No.65 of 2017, on the file of the learned II Additional District and Sessions Judge, Erode, reversal of the order dated 15.11.2017 made in C.M.P.No.2076 of 2017, on the file of the learned Chief



Crl.R.C.No.1091 of 2022

Judicial Magistrate, Erode.

For Petitioners : Mr.N.Manoharan

For Respondents : Mr.M.A.Aruneshe
for M/s.A.V.Arun for R-1

Mr.R.Darshan for R-2

Mr.S.Sugendran
Additional Public Prosecutor for R3

ORDER

This Revision arises out of the order dated 12.01.2022 passed by the learned II Additional District and Sessions Judge, Erode, in Crl.R.P.No.65 of 2017, reversing the order dated 15.11.2017 passed by the learned Chief Judicial Magistrate, Erode in C.M.P.No.2076 of 2017.

2. Originally, the land measuring to an extent of 2 acres situated in R.S.Nos.120 and 121/1 in Illipillai Village, Bhavani Taluk belonged to one S.Gurusamy, and he died on 14.01.2004. After his demise, there are three rival claims over the said property viz., (i) C.Gurusamy, the petitioner herein, who claims to be the son of the deceased S.Gurusamy, (ii) the first respondent- R.Susheela, who is said to be the adopted daughter of the deceased



Crl.R.C.No.1091 of 2022

S.Gurusamy, and (iii) one Chinnappa Gounder / brother of the deceased S.Gurusamy, who claims to be the beneficiary as per the Will of the testator (deceased S.Gurusamy), dated 08.01.2004, by initiating civil and criminal proceedings.

3. It is brought to the notice of this Court by the learned counsel appearing for the private respondents that in Crl.O.P.No.2210 of 2017, filed by the said Chinnappa Gounder, by order dated 09.02.2022, this Court has observed as follows:-

"8. Considering the submissions and on a perusal of the materials, it is seen that in C.C.No.130 of 2006, there are nine witnesses and the case is pending before the Judicial Magistrate, Bhavani. The private complaint in C.M.P. No.2076 of 2017, filed by G.Suseela claiming herself to be the adopted daughter of late Gurusamy Gounder, before the Chief Judicial Magistrate, Erode is now directed by the II Additional Sessions Judge, Erode in Crl.R.C.No.65 of 2017 to proceed with the case under Section 204 Cr.P.C., in this case, there are only four witnesses. On a perusal of the materials, it is seen that the complaints in both the cases seems to be whether the defacto complainant Gurusamy in C.C.No.130 of 2006 is the son of late Gurusamy Gounder born to Gurusamy Gounder and Mariammal or G.Suseela



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Crl.R.C.No.1091 of 2022

is the adopted daughter of Gurusamy Gounder and the issue is forgery of Will.

9. The sum and substance is to enjoy the property of two acres in R.S.No.120 and 121 along with the electricity connection and motor pumpset. This Court feels that it would be appropriate that C.C.No.130 of 2006 to be transferred from Judicial Magistrate, Bhavani to the Chief Judicial Magistrate, Erode, to be tried along with Crl.M.P. No.2076 of 2017 in the event of Crl.M.P. No.2076 of 2017 is converted as calendar case both cases to be tried simultaneously, the only condition is that the witnesses to be examined separately, evidence to be recorded separately, judgment to be passed on the same date. Since in both cases, witnesses are only limited the Chief Judicial Magistrate, Erode to give preference and to complete the trial in the two cases within a period of four months from the date of receipt of a copy of this Order. Accordingly, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed."

It is also submitted that both the cases viz., C.C.No.130 of 2006 & Crl.M.P.No.2076 of 2017 are pending before the learned Chief Judicial Magistrate, Erode.

4. This Court, after hearing the submissions made by the learned counsel



Crl.R.C.No.1091 of 2022

on either side and upon perusal of the documents enclosed in the typed set of papers, is of the view that by order dated 09.02.2022, taking note of the nature of the dispute arisen among the parties, a direction was issued to transfer C.C.No.130 of 2006 from the file of the learned Judicial Magistrate, Bhavani to the file of the learned Chief Judicial Magistrate, Erode, to be tried along with Crl.M.P. No.2076 of 2017, in the event of the same being converted as calendar case, and therefore, no further direction needs to be passed herein, except granting liberty to the parties to raise all their defence before the learned Chief Judicial Magistrate, Erode in C.C.No.130 of 2006.

5. With the above observation, the Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

30.09.2022

Speaking Order

Index : Yes.

r n s

Page No.5/7



Crl.R.C.No.1091 of 2022

To

1. The Additional District and Sessions Judge,
Erode.
2. The Chief Judicial Magistrate,
Erode.
3. The Inspector of Police,
District Crime Branch,
Erode District.
4. The Public Prosecutor,
Madras High Court, Chennai.



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Crl.R.C.No.1091 of 2022

P.VELMURUGAN, J.,

r n s

Crl.R.C.No.1091 of 2022 &
Crl.M.P.No.12315 of 2022

30.09.2022