



Crl.RC.No.481 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.RC.No.481 of 2019 and
Crl.MP.Nos.6781 & 6782 of 2019

M.S.Jayaraman

... Petitioner

Versus

- 1.The District Collector,
Villupuram District,
Villupuram
 - 2.The District Revenue Officer,
Villupuram District,
Villupuram
 - 3.The Sub-Divisional Magistrate cum
Revenue Divisional Officer,
Villupuram Division,
Villupuram
 - 4.The Thasildar,
Vanur Taluk,
Villupuram District
 - 5.The Inspector of Police,
Kottakuppam Police Station,
Kottakuppam 605 104
 - 6.G.Ravichandran
 - 7.S.Shanmugam
 - 8.S.Mathiazhagan
 - 9.Anbazhagan
 - 10.Sambathkumar
 - 11.Pathmanapan
- (R9 to R11 impleaded as per order in Crl.MP.No.8640
of 2022 in Crl.RC.No.481 of 2019 dated 06.07.2022) ...

Respondents



Crl.RC.No.481 of 2019

PRAYER: Criminal Revision filed under Section 397 of the Code of Criminal Procedure to set aside the prohibitive order passed against the petitioner by the third respondent – the Sub Divisional Magistrate cum Revenue Divisional Officer on 09.05.2019 under Section 145 Cr.P.C. proceeding bearing number Na.Ka.(A-1)1967/2019.

For Petitioner : Mr.P.T.Perumal
for Mr.L.Sivakumar

For Respondents

For R1 to 5 : Mr.A.Gopinath,
Government Advocate(crl.side)

For R7 & 8 : Mr.N.R.Elango,
Senior Counsel
for Mr.Ashwin Prasanna

For R9 to 11: Mr.A.E.Ravichandran

ORDER

This criminal revision is filed against the order passed by the third respondent on 09.05.2019 under Section 145 Cr.P.C. in Na.Ka.No. (A-1)1967/2019, thereby the petitioner was directed to approach the District Revenue Officer by way of appeal and till then, the petitioner was restrained from interfering with the possession of the subject property by respondents 7 & 8 herein.

2. Heard, Mr.P.T.Perumal, the learned counsel for the petitioner, Mr.A.Gopinath, learned Government Advocate(crl.side) appearing for respondents



Crl.RC.No.481 of 2019

1 to 5, Mr.N.R.Elango, learned Senior Counsel appearing for respondents 7 & 8

and Mr.A.E.Ravichandran, the learned counsel for respondents 9 to 11.

3. On receipt of the complaint from the petitioner, he was issued CSR.No.121 of 2019 dated 25.03.2019 by the fifth respondent. While pending enquiry, the fifth respondent also referred the same before the third respondent and on receipt of the same, the third respondent initiated proceedings under Section 145 of Cr.P.C. and issued notice to both the parties. After conclusion of enquiry, the petitioner was directed to file an appeal in respect of cancellation of patta transferred in favour of respondents 7 & 8 herein before the District Revenue Officer. Further, the petitioner was restrained from interfering with the peaceful possession and enjoyment of the subject property by respondents 7 & 8 and also he was restrained from disturbing the general public.

4. It is seen that admittedly there is civil dispute between the petitioner and respondents 7 & 8 herein, impleaded respondents 9 to 11 herein. Though the subject property was partitioned by the final decree, patta was transferred in favour of respondents 7 & 8 herein in respect of the share allotted to the petitioner. On the strength of the said patta, respondents 7 & 8 are claiming the property. Therefore, the petitioner filed suit in OS.No.82 of 2019 on the file of the District Munsif



CrI.RC.No.481 of 2019

Court, Vanur for injunction in respect of the subject property as against respondents

7 & 8 herein and others. However, it was dismissed for default and now the petitioner has filed application to restore the same, which is pending. Simultaneously, the eighth respondent also filed suit as against the petitioner in OS.No.182 of 2019 on the file of the Sub Court, Tindivanam for declaration of title by adverse possession in respect of the same subject property.

5. When both the suits were pending in respect of the subject property, the third respondent initiated proceedings under Section 145 of Cr.P.C., that too admittedly when the property dispute is between two individuals. There was no evidence to show that there was a law and order issue. However, the fifth respondent referred the complaint without even registering FIR for initiation of proceedings under Section 145 of Cr.P.C. When the civil suits are pending at the time of passing the impugned order, the third respondent has no jurisdiction to pass any order when the civil court seized the issue between two private individuals. Therefore, the order passed by the third respondent cannot be sustained and it is liable to be set aside.

6. Accordingly, the order passed by the third respondent on 09.05.2019 under Section 145 Cr.P.C. in Na.Ka.No.(A-1)1967/2019 is set aside and this criminal revision is allowed. It is made clear that the parties are at liberty to



Crl.RC.No.481 of 2019

approach the civil court for appropriate relief in the manner known to law.

WEB COPY

Consequently, conneced miscellaneous petitions are closed.

16.11.2022

Speaking/non-speaking

Index : Yes/No

Internet : Yes

lok



WEB COPY



Crl.RC.No.481 of 2019

G.K.ILANTHIRAIYAN, J.

lok

To

- 1.The District Collector,
Villupuram District,
Villupuram
- 2.The District Revenue Officer,
Villupuram District,
Villupuram
- 3.The Sub-Divisional Magistrate cum
Revenue Divisional Officer,
Villupuram Division,
Villupuram
- 4.The Thasildar,
Vanur Taluk,
Villupuram District
- 5.The Inspector of Police,
Kottakuppam Police Station,
Kottakuppam 605 104
- 6.The Public Prosecutor,
High Court of Madras

Crl.RC.No.481 of 2019

16.11.2022