



WEB COPY



Crl.O.P.No.17408 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2022

CORAM:

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

CRL.O.P.No.17408 of 2021

and

Crl.MP.Nos.9554 of 2021 & 2395 of 2022

Indirani

... Petitioner

Vs.

1.Revenue Divisional Officer/
Sub-Divisional Magistrate,
Perambur Taluk and District,
Permbalur 626212

2.R.Selvam

3.Karthik

... Respondents

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records vide impugned order dated 09.09.2021 in No.Mu.Mu(A3)997.2021 passed by the first respondent and to quash the same.

For Petitioner : Mr.P.Muthusamy

For Respondents

For R1 : Mr.A.Damodaran,
Additional Public Prosecutor

For R2 &3 : Mr.C.Prabakaran

ORDER



CrI.O.P.No.17408 of 2021

WEB COPY

This petition has been filed to quash the order dated 09.09.2021 in No.Mu.Mu(A3)997.2021 passed by the first respondent.

2. The petitioner's family owned joint family property of 5.94 acres comprised in survey No.976 situated at Veppamthattai Taluk and Perambalur District. They decided to purchase the property comprised in survey No.474/1 to an extent of 4867.5 sq.ft. at Perambalur near Trichy Main Road. Since the petitioner's brother Selvam who is the elder in the family, decided to purchase in his name and paid money accordingly. But the said property was purchased in the name of his wife instead of petitioner's brother. When it was objected by the petitioner, the said property reconveyed in favour of the said Selvam i.e. the brother of the petitioner herein. While being so, the petitioner's brother attempted to sell and disturb the peaceful possession of the petitioner and other family members in respect of the subject property with the help of the third parties. Therefore, the petitioner filed suit for permanent injunction in OS.No.246 of 2007 on the file of the District Munsif Court, Perambalur. While pending the suit, the petitioner also filed interlocutory application in IA.No.652 of 2007 for interim injunction and the same was granted in her favour. While being so, one Ravi purchased the subject property from the said Selvam by the



CrI.O.P.No.17408 of 2021

registered sale deed dated 01.11.2007 registered vide document No.6607 of

2007. Thereafter, the said Ravi died on 09.06.2016 leaving behind his wife, one son and two daughters as his legal heirs. Thereafter, the legal heirs released their right in respect of the subject property by way of release deed. When it being so, at the instance of the respondents 2 and 3 herein, the the matter was referred before the first respondent for initiation of proceedings under Section 145 of Cr.P.C. Admittedly there is civil dispute between the petitioner and the respondents 2 and 3 herein. Without considering the above facts and circumstances of the case, the first respondent passed the impugned order, thereby concluded that the second respondent had title over the property.

3. However, if the petitioner succeeds in the suit, she can very well take possession by way of execution of the civil court decree. The subject property is the subject matter of civil suit pending before the civil court. Question as to possession over the property or entitlement to possession would be determined by the civil court. Therefore, the first respondent has no jurisdiction to initiate proceedings under Section 145 of Cr.P.C. Therefore, the impugned proceedings cannot be sustained as against the parties and liable to be set aside.



CrI.O.P.No.17408 of 2021

4. Accordingly, this criminal original petition is allowed and the order dated 09.09.2021 in No.Mu.Mu(A3)997.2021 passed by the first respondent is quashed. However, the parties are at liberty to seek appropriate relief before the civil court. Consequently, connected miscellaneous petitions are closed.

20.07.2022

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

lok



WEB COPY



CrI.O.P.No.17408 of 2021

G.K.ILANTHIRAIYAN, J.



CrI.O.P.No.17408 of 2021

lok

To

WEB COPY

- 1.Revenue Divisional Officer/
Sub-Divisional Magistrate,
Perambur Taluk and District,
Permbalur 626212
- 2.The Public Prosecutor,
Madras High Court, Madurai.

CRL.O.P.No.17408 of 2021

20.07.2022