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CrI.R.C.No.910 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2022

CORAM:

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

CrI.RC.No.910 of 2019 and
CrI.MP.No.13095 of 2019

1.S.Kuppusamy
2.Chinthamani

... Petitioners

Vs.

1.The Sub Divisional Executive Magistrate /
Revenue Divisional Officer,
Tiruchengode,
Namakkal District
2.The Inspector of Police,
Nallur Police Station,
Namakkal District
(crime No.163 of 2018)
3.Janaki
4.Gopalakrishnan
5.Selvan
6.Sampoornam
7.Shanmugam
8.Elayammal
9.Myilsamy
10.Santhi
11.Thangaraj

... Respondents

PRAYER: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, to call for the records pertaining to the order in MC.No.4/2018/C dated 30.08.2019 passed by the first respondent under Section 145 Cr.P.C., set aside the same by allowing this criminal revision petition.

For Petitioners

: Mr.N.Manoharan



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For Respondents

For R1 & 2

: Mr.A.Gopinath,
Government Advocate(crl.side)

For R3 to 6

: Mr.V.Raghavachari

For R7 to 9

: Mr.T.L.Thirumalaisamy

ORDER

This criminal revision is directed as against the order passed in MC.No.4/2018/C dated 30.08.2019 passed by the first respondent under Section 145 Cr.P.C., thereby directed both the parties i.e. A and B to execute bond under Section 107 of Cr.P.C.

2. Heard, Mr.N.Manoharan, the learned counsel for the petitioners, Mr.A.Gopinath, the learned Government Advocate(crl.side) appearing for respondents 1 & 2, Mr.V.Raghavachari, the learned counsel for respondents 3 to 6 and Mr.T.L.Thirumalaisamy, the learned counsel for respondents 7 to 9.

3. On perusal of records revealed that the petitioners and the private respondents are neighbouring land owners. There was a common pathway dispute between them. In this regard, already the petitioners filed suit in OS.No.159 of 2008 on the file of the District Munsif Court,



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Paramathi as against respondents 3 and 4 herein for permanent injunction. However, the said suit was decreed partly. Aggrieved by the same, the petitioners preferred appeal suit in AS.No.59 of 2017, which was allowed. Aggrieved by the same, the respondents therein preferred second appeal and it is pending before this Court in SA.No.452 of 2021. Therefore, the first respondent has no jurisdiction to initiate the proceedings under Section 145 of Cr.P.C. That apart, by the impugned order, both the parties are directed to execute bond under Section 107 of Cr.P.C. Therefore, it cannot be sustained and the same is liable to be set aside.

4. Accordingly, this criminal revision is allowed and the order passed in MC.No.4/2018/C dated 30.08.2019 by the first respondent under Section 145 Cr.P.C. is set aside. Consequently, connected miscellaneous petition is closed.

02.12.2022

Speaking/non-speaking
Index : Yes/No
Internet : Yes
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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Sub Divisional Executive Magistrate /
Revenue Divisional Officer,
Tiruchengode,
Namakkal District
- 2.The Inspector of Police,
Nallur Police Station,
Namakkal District
- 3.The Public Prosecutor,
High Court of Madras

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