



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2022

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C. (MD)No.649 of 2021

and

Crl.M.P(MD)No.7208 of 2021

WEB COPY

T.Narayanan

... Petitioner/Respondent

Vs.

1.The Sub-Divisional Magistrate,
cum Sub-Collector,
Padmanabapuram

2.Vaigundamani

... Respondents

Prayer: This Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. to call for records relating to the impugned order passed by the first respondent in his proceedings in Na.ka.Aa2/4343/2021, dated 31.08.2021 and set aside the same.

For Petitioner : Mr.B.Saravanan

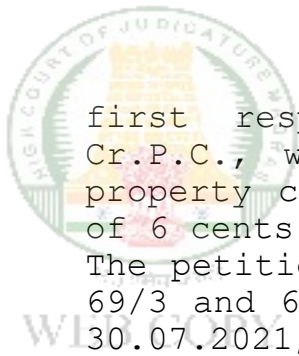
For R1 : Mrs.M.Aasha
Government Advocate(Crl.Side)

For R2 : Mr.G.Aravinthan

ORDER

The criminal revision petition has been filed seeking to set aside the order passed by the first respondent in Na.Ka.Aa2/4343/2021, dated 31.08.2021.

2.The case of the petitioner is that his house is comprised in S.F.No.73/2, 73/3, 73/4 at Kothanallur Village, Kalkulam Taluk, Kanyakumari District. The total extent of the property is 9 cents. In respect of the S.No.73/2, the total extent of the land is 7 cents and out of which, the petitioner is in possession and enjoyment of 3 cents and 144 links. The petitioner settled half of the extent of the land in S.No.73/2 in favour of his wife by the registered settlement deed dated 24.05.2004. Apart from that his wife had also purchased 1 cent and 204 links from his brother by registered sale deed, dated 20.11.2012. While being so, the second respondent had encroached the panchayat land, started trouble and used the petitioner's patta land as pathway to reach his land. In fact, the second respondent did not have any pathway right in the patta land owned by the petitioner to reach his land. On the complaint, the



first respondent had initiated proceedings under Section 147 Cr.P.C., whereas, the case of the second respondent is that the property comprised in S.Nos.73/13 and 73/14 measuring to an extent of 6 cents and 250 links owned by the second respondent under patta. The petitioner had used the land comprised in S.Nos.73/2, 69/10 and 69/3 and 69/7 as pathway to reach his house. At that juncture, on 30.07.2021, the petitioner had erected gate and closed the pathway. Therefore, the second respondent's mother had submitted a representation and initiated proceedings under Section 147 Cr.P.C. The first respondent had conducted enquiry after giving opportunity of hearing both the parties and found that the second respondent had been using the land comprised in S.No.69/7, 69/3, 69/10 and 73/2 as pathway to reach his land. The land comprised in S.No.69/7 and 69/3 are Government poramboke and the land comprised in S.No.73/2, belonged to the petitioner herein. Likewise, the land comprised in S.No.69/10 is a patta land. However, there is no dispute in respect of the land comprised in S.No.73/2, 69/10.

3.On perusal of the parent document, it is found that the property in S.No.73/2, 3 links land was shown as pathway. Though the petitioner represented that the said land was used only for their family members, all the general public are using the said road as common pathway. In this regard, the first respondent had also enquired the general public and confirmed the same. If at all the petitioner claims the exclusive right over the pathway, they ought to have approached the civil Court for appropriate relief.

4.Therefore, the first respondent had rightly passed order stating that the pathway situated in the land comprised in S.No.73/2 measuring to an extent of 3 links used by the second respondent, cannot be obstructed by the petitioner herein. This Court finds no infirmity or illegality in the order passed by the first respondent. Therefore, criminal revision petition stands dismissed. However, the petitioner is at liberty to approach the civil Court in the manner known to law, if so advised. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

lr
To

The Sub-Divisional Magistrate,
cum Sub-Collector,
Padmanabapuram

<https://hcservices.ecourts.gov.in/hcservices/>



Copy to

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G. ARAVINTHAN, Advocate (SR-19961[F] dated
21/04/2022)

+1 CC to M/s.B. SARAIVANAN, Advocate (SR-19968[F] dated 21/04/2022)

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