



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2022

CORAM:

WEB COPY

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

Crl.R.C. (MD)No.662 of 2020

&

Crl.M.P(MD)No.6632 of 2020

1. Manikandan
2. P.Murugesan
3. S.Mani

... Petitioners/"B" Party

Vs.

1. The State represented by
The Inspector of Police,
Pudukkottai Police Station,
Thoothukudi District.

... 1st Respondent/
Sponsoring Authority

2. C.Sam Devadasan

... 2nd Respondent/
"A" Party

3. The Sub Divisional Magistrate
cum Sub Collector,
Thoothukudi,
Thoothukudi District.
(R.3 *Suo motu* impleaded as per
order of this Court dated 04.03.2022 in
Crl.M.P(MD)No.3023 of 2022 in
Crl.R.C. (MD)No.662 of 2020)

... 3rd Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and set aside the impugned order, dated 22.10.2020, passed in Roc.No.B1/Cr.PC 145/01/2019 by the learned Sub Divisional Magistrate, Thoothukudi, Thoothukudi District.

For Petitioners : Mr.I.Pinaygash

For Respondents : Mrs.M.Aasha

Government Advocate (Criminal Side)
for R.1

Mr.S.Ramasamy for R.2

O R D E R

This petition has been filed to set aside the impugned order, dated 22.10.2020 passed in Roc.No.B1/Cr.PC 145/01/2019 by the learned Sub Divisional Magistrate, Thoothukudi, Thoothukudi District.

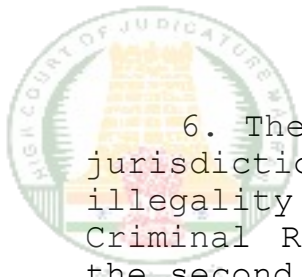


2. The case of the prosecution is that the petitioners who are "B" party, are in possession of only 5 cents of land, wherein the original Sudalai Madasamy Temple is situated to an extent of 52 cents in Survey No. 26/3B1 A1 Koramballam I Village, Thoothukudi Taluk, Thoothukudi District. Whereas the A party, namely, the second respondent is in possession of the remaining 47 cents situated in the very same survey Number and they are restrained from until further orders from any Court of law.

3. The learned counsel for the petitioners would submit that vendors of the second respondent already filed the suit in O.S.NO.61 of 1993 on the file of the Sub Court, Thoothukudi for declaration and permanent injunction in respect of the property comprised in Survey No. 26/3B1 A1 admeasuring 2 acres and 1 cent and the said suit was dismissed for default. In fact, they filed I.A.No.210 of 1998 to restore the said suit and the same was also dismissed. The said suit was filed as against the forefathers of the petitioner herein. When the civil Court already denied the relief, in respect of the subject property, the third respondent has no jurisdiction to decide the very same issue in respect of the very same property.

4. A perusal of records revealed that the second respondent filed the suit in respect of subject property claiming that they purchased the property admeasuring 52 cents comprised in Survey No. 26/3B1A of Koramballam I Village, Thoothukudi Taluk, Thoothukudi District, by way of registered sale deed, dated 29.10.2012 vide Document No.3958 of 2012 from the vendor - Mrs.Gnanam and her son Koilraj Stalin and daughter Rubiya Smiley. Out of total extent of 60 cents, 8 cents was already acquired by the National Highway Authority of India for widening of the road. The compensation for acquisition of that land was ordered for disbursement to Mrs.Gnanam, party in the judgment delivered on 21.09.2011 in LAOP.No.44 of 2009 before the District Court, Thoothukudi.

5. While being so, the petitioner trespassed into that land and encroached the disputed land and put up a new Temple Beedoms and created troubles by not allowing the second respondent in the entire land. Whereas the case of the petitioner is that the temple called Arulmigu Sudala Madasamy Temple belongs to Periyamayagipuram Village situated extend up to 52 cents comprised Survey No. 26/3B1A of Koramballam I Village, Thoothukudi Taluk, Thoothukudi District. There are 250 families are worshipping prayers in the said temple. After considering the above submissions as per the sale deed and also as per the report received from Revenue Authorities and on a perusal of the Village Accounts, it is seen that the petitioners are in possession of only 5 cents of land and the second respondent is in possession of remaining land measuring about 57 cents in the land comprised in Survey No.26/3B1A of Koramballam I Village, Thoothukudi Taluk, Thoothukudi District, insofar as their respective possession



6. Therefore, the third respondent shall pass orders within its jurisdiction and this Court does not find any infirmity or illegality in the order passed by the third respondent. This Criminal Revision Case is dismissed. However, the petitioners and the second respondent are at liberty to approach the civil Court for appropriate relief in respect of the subject property, if so they desire. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mga

To:-

- 1.The Sub Divisional Magistrate,
Thoothukudi,
Thoothukudi District.
2. The Inspector of Police,
Pudukkottai Police Station,
Thoothukudi District.
3. The Sub Divisional Magistrate
cum Sub Collector,
Thoothukudi,
Thoothukudi District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.RAMASAMY, Advocate (SR-14441[F] dated 25/03/2022)

Crl.R.C. (MD) No.662 of 2020

&

Crl.M.P (MD) No.6632 of 2020

24.03.2022

GM(CO)

KB(27.04.2022) 3P 6C