



Crl.O.P.(MD) No.14885 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	28.06.2022
Delivered on	13.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.(MD) No.14885 of 2021

and

Crl.M.P(MD)No.7918 of 2021

1.C.Thangam
2.T.Eswari
3.T.Ramesh
4.T.Raja

...Petitioners

Vs.

1.The Sub-Divisional Magistrate-
cum-Revenue Divisional Officer,
Collectorate Building,
Madurai – 625 020.

2.C.Pancham

... Respondents

PRAYER: Criminal Original Petition filed under Section 407 Cr.P.C. praying to call for the records of the first respondent, the Sub Divisional Magistrate-cum-Revenue Divisional Magistrate, Madurai by its order in No.Mu.Mu.No.4595/2019/C dated 30.12.2020 which was served on the petitioners only on 23.04.2021 and quash the same.



Crl.O.P.(MD) No.14885 of 2022

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For Petitioners : Mr.M.Venkatesan

For Respondent : Mr.R.Sureshkumar
Govt. Advocate (crl.side) (for R1)

Mr.P.M.Vishnu Varthanan (for R2)

ORDER

The petitioner challenges the order of the first respondent/Sub Divisional Magistrate-cum-Revenue Divisional Magistrate, Madurai made in No.Mu.Mu.No.4595/2019/C dated 30.12.2020.

2.Fact:- The second respondent is the 'A' party and the petitioner is the 'B' party. There is a dispute between them with regard to the property to an extent of 2 Acre 72½ Cents in S.No.240/4B situated at Kuruvithurai Village, Madurai District. In this regard, an enquiry under Section 145 Cr.P.C has been conducted by the first respondent. During enquiry, the first respondent found that the property in dispute is with the enjoyment of the second respondent Pancham and not in the possession of the petitioners. Hence, the first respondent directed the petitioners to approach the civil Court to establish their right, if any, and also instructed



Crl.O.P.(MD) No.14885 of 2022

them not to give any trouble to the second respondent. Aggrieved over the same, the petitioners filed this petition.

3.The learned counsel appearing for the petitioners submitted that the order of the first respondent is not in accordance with law and he passed the order mechanically. He ought not to give the finding that the disputed property is in possession of the second respondent. Without considering the other documents, the order passed by the first respondent is beyond the scope of Section 145 of Cr.P.C and without any merits. The petitioners and the second respondent are having equal right over the property. He further submitted that the scope of Section 145 Cr.P.C is only for preventing the law and order problem. Since this order is beyond its scope, it is unsustainable. Hence, the learned counsel prays to set aside the impugned order.

4. The learned Government Advocate (criminal side) appearing for the first respondent would submit that since both the parties creates the problem and they approached the first respondent for solving the dispute,



Crl.O.P.(MD) No.14885 of 2022

the first respondent passed the impugned order. There is no illegality or irregularity in the order impugned in this petition.

5. The learned counsel appearing for the 2nd respondent submitted that the impugned order is well reasoned and it requires no interference and therefore, this criminal original petition is liable to be dismissed.

6. I have carefully considered the rival submissions of the learned counsel for the petitioner, learned Government Advocate (criminal side) appearing for the first respondent and the learned counsel appearing for the second respondent.

7. It is seen from the records that the first petitioner/Thangam and the second respondent/Pancham are the brothers and there is a land dispute with regard to the above mentioned property. In this regard, the second respondent/Pancham gave a petition to the first respondent on 08.07.2019. Based on which, an enquiry has been conducted. During enquiry, it was found that when the first respondent was aged about 10



Crl.O.P.(MD) No.14885 of 2022

years, he met with an accident, for which, some compensation had been received. From which, the disputed property was purchased from one Veerayiammal. Further, in the impugned order, the first respondent clearly stated that the second respondent's name, viz., Pancham has been reflected in the revenue records. Hence, the first respondent advised the petitioners herein to approach the Civil Court. Since the disputed property has been purchased by the second respondent from the amount received as compensation for the injuries sustained by him, the first respondent passed the impugned order in his favour.

8. The first respondent/Sub Divisional Magistrate-cum-Revenue Divisional Magistrate has the power under Section 145 Cr.P.C to decide which party was in possession and can issue direction to the disputed party to approach the civil Court to establish their right and to stop the creation of law and order problem. I find no illegality or irregularity in the order passed by the first respondent/Sub Divisional Magistrate-cum-Revenue Divisional Officer.



Crl.O.P.(MD) No.14885 of 2022

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9. In view of the above, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also dismissed.

13.07.2022

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
skn

To

1. The Sub-Divisional Magistrate-
cum-Revenue Divisional Officer,
Collectorate Building,
Madurai – 625 020.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CrI.O.P.(MD) No.14885 of 2022

V.SIVAGNANAM, J.

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CrI.O.P.(MD) No.14885 of 2021
and
CrI.M.P(MD)No.7918 of 2021

13.07.2022