



Crl.R.C(MD)No.342 of 2012

BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

DATED : 10.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.342 of 2012

A.Thirumalai Saminathan ... Revision Petitioner/Petitioner

Vs.

1.The Sub-Divisional Magistrate cum
Revenue Divisional Magistrate,
Tiruchirappalli.

2.S.V.S.Kannan

3.Periyasamy

4.S.Kumar

... Respondents 2 to 4/
Respondents

PRAYER: Criminal Revision Case filed under Section 397 and 401 of the Code of Criminal Procedure, to call for the records of the first respondent proceedings in Na.Ka.No.A1-4138-2020, dated 15.10.2010 and set aside the same by allowing the present Criminal Revision Petition.

For Petitioner : Ms.J.Maria Roseline

For R – 1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)

For RR 2 to 4 : Mr.F.Deepak



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ORDER

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This Revision has been filed to set aside the proceedings in Na.Ka.No.A1-4138-2020, dated 15.10.2010, issued by the first respondent, thereby dismissing the petition seeking removal of encroachment under Section 133 of Cr.P.C.

2.The learned counsel appearing for the petitioner would submit that the respondents 2 to 4 have encroached upon a public street and there is absolutely no justification for them to continue their notorious obstructions of a public pathway. The respondents 2 and 3 obtained patta and subdivided the land in question, which is classified as a 'Natham Arasu Poramboke road'. In fact, the petitioner also filed a Writ Petition in W.P(MD)No.339 of 2012 seeking cancellation of patta issued in favour of the respondents 2 and 3 herein. The said Writ Petition was dismissed, by order, dated 27.08.2012. Aggrieved by the same, the petitioner preferred a Writ Appeal in W.A(MD)No.700 of 2012 and the Honourable Division Bench of this Court, by order, dated 06.03.2023,



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directed the concerned Revenue Divisional Officer to consider the representation of the petitioner and pass orders within a stipulated time.

3.Heard the learned counsel appearing on either side and perused the materials available on record.

4.On a perusal of the records revealed that the petitioner laid out his land as house plots comprised in Survey No.214/1A and sold out to the third parties. However, there is no access to reach the house plots, since the respondents 2 to 4 constructed their respective houses and stayed there. Therefore, the public, school children and others are suffering without any road to reach their respective houses. Therefore, he made an application before the first respondent in order to remove the encroachment under Section 133 of Cr.P.C. However, the respondents 2 & 3 were already granted patta for their respective houses. Though the fourth respondent did not possess any patta, admittedly, he constructed a house, and he is residing in the said land and the said is also classified as Natham Arasu Poramboke road. Therefore, the first respondent rightly dismissed the request made by the petitioner and this Court finds no infirmity or illegality in the order passed by the authority concerned. Accordingly, this Criminal Revision Case is dismissed. However, if the petitioner succeeds before the Revenue Divisional Officer by cancelling the patta issued in



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favour of the respondents 2 & 3 herein, he is at liberty to approach the first respondent afresh for appropriate relief.

10.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
ps

To

- 1.The Sub-Divisional Magistrate cum
Revenue Divisional Magistrate,
Tiruchirappalli.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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10.03.2023