



Crl.R.C.No.132 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

Crl.R.C.No.132 of 2024

1.Dayalan Rajes

2.Lakshmi Dayalan

3.Thangam Dayalan

... Petitioners

Vs.

1.The Sub-Divisional Magistrate/
Revenue Divisional Officer,
Salem.

2.Shiv Dayalan

3.The Tahsildar,
Yercaud Taluk office,
Yercaud,
Salem.

... Respondents

Prayer : Criminal Revision Case filed under Section 397(1) r/w 401 Cr.P.C, praying to call for the records and set aside the order of the 1st respondent passed under Section 145 Cr.P.C. in Na.Ka.No.6563/2023/A2 dated 18.11.2023.



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For Petitioners : Mr.A.Karthikeyan

For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side) [R1]

Mr.D.Shivakumaran [R2]

ORDER

This Criminal Revision Case has been filed against the order of the 1st respondent passed u/s 145 Cr.P.C. in Na.Ka.No.6563/2023/A2 dated 18.11.2023.

2. The case of the petitioners is that, the 1st petitioner and the 2nd respondent are the owners of the property to the extent of 91.18 acres of "Hemalands estate" and the 1st petitioner claims that there was an oral partition in between the 1st petitioner and the 2nd respondent on 01.03.1990 in the said 91.18 acres and as per the said oral partition, S.Nos.32/1A, 3/1, 3/2, 4/1, 4/2, 32/5, 32/2, 32/9, 32/10, 33 totalling an extent of 45.17 acres stood fallen to the share of the 1st petitioner while S.Nos.2/4, 23/1A, 5, 10/1, 10/2, 24/1, 24/5A totalling an extent of 48.73



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acres had fallen to the share of the 2nd respondent. Based on the said oral partition, the 1st petitioner decided to measure the property, which was objected by the 2nd respondent, thereby they landed before the 1st respondent and the 1st respondent passed an order u/s 145 of Cr.P.C. directing the parties to workout their remedy before the civil court. Challenging the same, the petitioner has filed the present revision before this court.

3. Though very many grounds have been raised by the petitioner against the order impugned, however, when the matter is taken up for hearing today, the learned counsel for the petitioner submitted that, without going into the merits of the case, this Court may permit the 1st petitioner and the 2nd respondent to file separate application along with original registered title deed for surveying the property before the Taluk Surveyor and if such application is filed before the Taluk Surveyor, the Taluk Surveyor may be directed to measure the property in the presence of the 1st petitioner as well as the 2nd respondent.

4. Learned counsel appearing for the 2nd respondent has no



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objection for the said being passed.

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5. In view of the consent view expressed by the learned counsel for the petitioners and the 2nd respondent, without interfering with the order impugned, this court is inclined to dispose of this revision with the following order :-

(i) the 1st petitioner and the 2nd respondent is directed to file separate application along with necessary fees in terms of the Tamil Nadu Survey and Boundaries Act, 1923 and original registered title deeds before the Taluk Surveyor, within a period of two weeks from the date of receipt of a copy of this order ;

(ii) if such application is filed, the Taluk Surveyor with the help of Tahsildar is directed to measure the property based on the original registered title deeds and pass appropriate orders within a period of two weeks thereafter.

6. With the above directions, this Criminal Revision Case is disposed of.

04.07.2024

Index : Yes / No

Speaking order / Non-speaking order



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Neutral Citation Case : Yes / No
sp

To

- 1.The Sub-Divisional Magistrate/
Revenue Divisional Officer,
Salem.
- 2.The Tahsildar,
Yercaud Taluk office,
Yercaud,
Salem.
- 3.The Public Prosecutor,
Madras High Court,
Chennai.



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M.DHANDAPANI, J.

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