



Crl.R.C.No.1170 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

Crl.R.C.No.1170 of 2024

and

Crl.M.P.No.9837 of 2024

Kanmani

... Petitioner

Vs.

1.The Sub Divisional Magistrate (North),
Saram, Puducherry.

2.State Rep by the Station House Officer,
Odiansalai Police Station, Puducherry.

3.Mari Reine Vassanty Manet

... Respondents

Prayer : Criminal Revision Case filed under Section 397 and 401 Cr.P.C, praying to call for the records of the entire proceedings in M.C.No.16 of 2024 order dated 07.06.2024 on the file of Sub Divisional Magistrate (North), Puducherry and to set aside the same.

For Petitioner : Mr.D.Senthilkumar

For Respondents : Mr.A.Gopinath

Government Advocate (Crl.Side) [R1 & R2]

Notice dispensed with [R3]



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ORDER

This Criminal Revision Case has been filed against the order dated 07.06.2024 passed in M.C.No.16 of 2024 by the learned Sub Divisional Magistrate (North), Puducherry.

2. Since no adverse order has been passed against the 3rd respondent, notice to the 3rd respondent is dispensed with.

3. The case of the petitioner is that, she claims to be wife of one Bernard Pichaya Manet and they got married on 13.12.1995 and the same was registered on the file of Sub-Registrar, Marakkanam. In-laws of the petitioner namely Marie Jeanne Monique Louis Xavier and Manet Leon Marius died on 02.04.2008 and 09.01.2009 respectively and their death were registered on the file of Puducherry Municipality. Thereafter, the petitioner's husband died on 01.05.2021 and his death has been registered on the file of Oulgaret Municipality and she obtained legal heir award from Lok Adalat vide LAC No.10057/2023 on the file of I Additional District Munsif at Puducherry in O.S.No.843 of 2023 dated



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09.09.2023 and she is the only legal heir of her deceased husband. On 01.11.2023, when she came back from shopping, she was shocked and surprised that the 3rd respondent and her husband along with some hooligans jointly were breaking the door and trying to trespass to the property and the same was restrained with help of neighbours. On 02.11.2023, she lodged a written complaint before the 2nd respondent, however, instead of registering FIR and taking action, they gave a report on 13.11.2023. The petitioner is in the possession and enjoyment of the property without any disturbance from any quarters. Due to her health issues, she executed a settlement deed in favour of her sister Kamala for taking care of the property and the same has been registered on the file of Sub-Registrar, Puducherry vide settlement deed No.36792 dated 06.12.2023. After a month, she got settlement in her favour from her sister Kamala and the same has been registered on the file of Sub-Registrar, Puducherry vide document No.409/2024 dated 05.01.2024. She purchased the property jointly with her husband along with one other property from one Rama, W/o.Sadhasivam on 15.02.2007 and the same has been registered on the file of Sub-Registrar, Puducherry vide document No.1125/2007. During his lifetime, he sold only his half share



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and as per the French civil code, he is entitled to get only half share and he left the remaining half share to the petitioner and she executed a settlement deed in favour of her sister Kamala vide document No.36802/2023 dated 06.12.2023 and till date, the said Kamala is in the possession and enjoyment of the property, which is next to the disputed property. On 03.02.2024, around 04.30p.m., the 3rd respondent along with her hooligans, once again created disturbance to the petitioner's peaceful possession and enjoyment of the property and immediately she lodged an oral complaint before the 2nd respondent, but they did not respond to her complaint. The 3rd respondent is a French national and she has given a complaint to the police, to which they immediately reacted and enquiry was conducted u/s 145 Cr.P.C. in between the petitioner and the 3rd respondent and direction was given to the 2nd respondent to ensure the possession of the property by the 3rd respondent by using minimum force. Aggrieved by the same, the present revision has been filed by the petitioner.

4. Learned counsel appearing for the petitioner submitted that she is the only legal heir of her deceased husband and the 3rd respondent is



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the sister of her deceased husband and she is a French National and she is presently residing in France. All of a sudden, she came to India and disturbed the possession and enjoyment of the property by the petitioner. The legal heir certificate, death certificate, Aadhar Card, marriage certificate shows that the petitioner is the wife of the deceased, thereby she is the class I legal heir, however, being the sister of the deceased, she is a class II legal heir. However, the 1st respondent passed the impugned order in M.C.No.16 of 2024 in IR.No.2 of 2024 which is without jurisdiction. If at all the 3rd respondent has any grievance, she has to workout the remedy before the civil court, instead of which, she had approached the 1st respondent u/s 145 Cr.P.C. claiming the property, which is wholly unsustainable. Accordingly, he prays for appropriate orders.

5. On the above contentions, heard the learned Government Advocate (Crl.Side) appearing for the respondents 1 and 2 and also perused the materials available on record.

6. Admittedly, the 3rd respondent is a French National and she is



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residing in France. It is claimed by the petitioner that she is the wife of the deceased Bernard Pichaya Manet, who is none other than the brother of the 3rd respondent. She further claims that their marriage was registered on the file of Sub-Registrar, Marakkanam in the year 1995 and the death certificate was issued in her favour. Subsequently, the petitioner filed a suit in O.S.No.843 of 2023 on the file of the learned I Additional District Munsif, Puducherry, in which, she obtained legal heir award from Lok Adalat vide LAC No.10057/2023 as she is the only legal heir of her deceased. However, the alienation document submitted by the petitioner is not binding on the 3rd respondent as the same has not been issued by the authority competent to issue the certificate in favour of the petitioner with notice to the 3rd respondent. In the present case, the petitioner herself admitted that the 3rd respondent is the sister of the deceased. In view of the said relationship, the petitioner ought to have impleaded the 3rd respondent as party in the suit. However, the petitioner impleaded one Sarathkumar as defendant and entered a compromise before the Lok Adalat and obtained a decree, which is not binding on the 3rd respondent. If at all the petitioner has any grievance with regard to title over the disputed property, she has to approach the civil court for



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appropriate remedy, instead of which, she has filed the present revision challenging the impugned order passed in the proceedings u/s 145 Cr.P.C. is wholly unsustainable. When the petitioner imposes upon the 3rd respondent to approach the civil court for establishing her right, she also has to follow the same and she cannot come before this court seeking any relief when there exists a dispute over the property. Therefore, this Court is not inclined to interfere with the impugned order.

7. Accordingly, the Criminal Revision Case is dismissed.

Consequently, the connected miscellaneous petition is also dismissed.

09.07.2024

Index : Yes / No
Speaking order / Non-speaking order
NCC : Yes / No
sp

To

- 1.The Sub Divisional Magistrate (North),
Saram, Puducherry.
- 2.The Station House Officer,
Odiansalai Police Station, Puducherry.
- 3.The Public Prosecutor,



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Madras High Court,
Chennai.



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M.DHANDAPANI, J.

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