



Crl.R.C.No.1257 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2024

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THE HONOURABLE MR.JUSTICE M. DHANDAPANI

Crl.R.C.No.1257 of 2022
and CrI.M.P.No.13631 of 2022

1. Rathinam
2. Venkatesan
3. Purushothaman

.... Petitioners

Versus

1. The Sub-Divisional Magistrate
and Revenue Divisional Officer,
Thirupattur.

2. Nagaraj
3. Murugan

.... Respondents

Prayer: The Criminal Revision Case is filed under Section 397 r/w 401 of Cr.P.C. to call for the records of the entire proceedings in M.C.No.147 of 2022, dated 27.07.2022 on the file of the Sub-Divisional Magistrate and Revenue Divisional Officer at Thirupattur and to set aside the same.



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For Petitioners : Mr.D.Senthilkumar
For Respondent : Mr.A.Gopinath
No.1 Government Advocate (Crl.Side)
For Respondent : Ms.Mumtaj Sunya
Nos.2 & 3

ORDER

The present Criminal Revision Case has been filed to call for the records of the entire proceedings in M.C.No.147 of 2022, dated 27.07.2022 on the file of the Sub-Divisional Magistrate and Revenue Divisional Officer at Thirupattur and to set aside the same.

2. The case of the petitioners is that originally, the 1st petitioner along with his deceased brother namely, Raja, purchased an immovable property admeasuring an extent of 3 acre and 35 cents from one Jaganathan and subsequently, there was an oral partition took place between them and hence, the 1st petitioner acquired 1 acre 45 cents and he obtained patta for the same. During the year 2005, the 1st petitioner sold and conveyed the property measuring an extent of 1 acre and 32 cents in Survey No.251/1B



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and 251/1D in favour of the 3rd petitioner. However the 2nd and 3rd respondents have illegally interfered with the 3rd petitioner's possession and enjoyment over the said property and hence, the 3rd petitioner filed a suit in O.S No.152 of 2006 before the Principal Munsif Court, Thirupattur, for the relief of declaration that the 3rd petitioner is the owner of the said property and permanent injunction and the same was decreed on 26.09.2011. Against the said decree, the respondents have not preferred any appeal till date. Therefore, the Revenue department measured the said property measuring an extent 1 acre 32 cents belongs to the 3rd petitioner and the 1st petitioner's remaining property measuring an extent of 12 cents, thus totally measured 1 acre 44 cents and fixed boundary stones in the presence of the 2nd and 3rd respondents. Subsequently, the 1st and 3rd petitioners herein sold and conveyed 1 acre 12-1/4 cents comprised in Survey No.252/1C and 252/1D in favour of the 2nd petitioner and the 3rd petitioner sold his property measuring 16 cents comprised in Survey No.251/1B. Thus, the 2nd petitioner is the owner of the property measuring an extent of 1 acre 28-1/4 cents and the 3rd petitioner is the owner of 16 cents.



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3. It is the further case of the petitioner that adjacent to the petitioner's land, there is a Government Higher Second School and the Revenue Department came and measured the school premisses in order to lay the compound wall and at that time, they had informed that an extent of 8 cents land is available in the petitioners' land and asked the petitioners to vacate and hand over the said extent to the School Authorities. Hence, the petitioners requested the Taluk Office to measure the petitioners' land measuring an extent of 1 acre 44 cents as per patta, however, the private respondents have objected for the same. Hence, the 2nd petitioner filed Crl.O.P No.25986 of 2021 before the Hon'ble High Court seeking for police protection for surveying the lands of the petitioners and the same was allowed and accordingly, the Tahsildar, Thirupattur, have measured the petitioner's land and fixed boundary stone in the presence of the private respondents. After demarcation, the petitioner erected fences in their lands and the same was objected by the private respondents. Hence, the 2nd petitioner filed Crl.O.P No.6623 of 2022 seeking for police protection for erecting fences at the petitioner's cost in his land in Survey No.252/1C, 252/1D and 251/1B of Adhiyur Village and the same was allowed.



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Subsequently, the 2nd petitioner has erected fences on his land in the presence of the private respondents. Thereafter, the private respondents along with their family members have committed mischief to the petitioner's fence by damaging the same and hence the 2nd petitioner lodged a police complaint. Suppressing the aforesaid facts, the private respondents submitted a representation dated 09.05.2022 before the 1st respondent under Secytion 145 of Cr.P.C. On 04.06.2022, the private respondents filed a civil before the Principal District Munsif Court at Thirupattur in O.S No.139 of 2022 for the relief of declaration and permanent injunction as against the petitioners. The 2nd respondent also filed I.A Nos.1 and 2 of 2022 seeking to grant an order of interim injunction, in which, the trial Court refused to grant *ex parte* interim order and only ordered notice to the respondents/defendants, since there is no prima facie case made out. However, the learned Executive Magistrate did not consider the documents relied on by the petitioner and passed the impugned order restraining the 2nd petitioner from interfering with the possession of the school property. Challenging the same, the present Criminal Revision Case has been filed.



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4. On perusal of the records, it is seen that the proceedings under 145 Cr.P.C has been passed on 27.07.2022 and since the period mentioned in the proceedings expires much earlier, the petitioners cannot challenge the impugned order passed by the 1st respondent.

5. In view of the above, this Criminal Revision Case is closed with liberty to the petitioners to work out their remedy as against respondent Nos.2 and 3 in the manner known to law. Consequently, the connected Miscellaneous Petition is closed.

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To

1. The Sub-Divisional Magistrate
and Revenue Divisional Officer,
Thirupattur.
2. The Inspector of Police, Thirupattur Taluk Police Station.
3. The Public Prosecutor, High Court of Madras.



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