



Crl.O.P.(MD) No.4771 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.01.2024

CORAM:

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.(MD) No.4771 of 2021

and

Crl.M.P.(MD).No.2709 of 2021

1.Pounsamy

2.Pojarajan

3.Gunasekaran

4.Dhanalakshmi

... Petitioners

Vs.

1.The Revenue Divisional Officer,
Usilampatti Sub Division,
Usilampatti,
Madurai District.

2.The Inspector of Police,
Uthappanaickanoor Police Station,
Usilampatti Taluk,
Madurai District.

3.Sudha

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the proceedings in Na.Ka.No.5389/2020/௮3 pending on the file of the first respondent and set aside the same.



Crl.O.P.(MD) No.4771 of 2021

For Petitioner : Mr.D.Malaichamy
For R-1 and R-2 : Mr.R.M.Anbunithi
Additional Public Prosecutor
For R-3 : Mr.Kevinkaran

ORDER

Challenge in this petition is made to the proceedings in Na.Ka.No. 5389/2020/m3 dated 18.01.2021 under Section 145 Cr.P.C, passed by the first respondent, granting permission to the third respondent to reside in her ancestral house of her late husband situated in Survey No.380/32 of Kalloothu Village, Usilampatti Taluk, Madurai District.

2. The learned counsel for the petitioner would contend that the Revenue Divisional Officer without applying his mind had passed an order under Section 145 Cr.P.C. and according to him, there is no breach of peace as far as the present case is concerned.



Crl.O.P.(MD) No.4771 of 2021

3. The facts of the case in a nut shell are as follows:

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The third respondent is the wife of one Durairaj, who died on 05.08.2020. Since the petitioners who are the other brothers and sisters of the deceased Durairaj, did not permit the third respondent to reside in the ancestral home of the third respondent's husband, she filed a petition before the Revenue Divisional Officer in which the Revenue Divisional Officer passed an interim order on 19.02.2021 permitting the third respondent to reside in the ancestral home of her husband.

4. According to the learned counsel for the petitioner, the matter was referred to Mediation and Conciliation Centre and that though the third respondent is residing in Coimbatore, she is often going over to the Kalloothu Village and wants to reside in the new house constructed by one of the brothers of the third respondent's husband and refused to reside in the old ancestral home.

5. It is seen from the records that the Revenue Divisional Officer after issuing proper summons to all the petitioners and after enquiring them, had passed an interim order on 19.02.2021, giving permission to the present third respondent to reside in the ancestral home of her husband. There is nothing to



Crl.O.P.(MD) No.4771 of 2021

show that the Revenue Divisional Officer has exceeded his powers. However, no final order has been passed by the Revenue Divisional Officer and the matter is still pending before the lower authority. The petitioners can always approach the concerned authority and also can challenge the final orders, if any, passed by him.

6. It is also not known as to why the third respondent has not filed a suit for partition when admittedly the property in S.No.380/32, Kalloothu Village, Usilampatti Taluk, Madurai District is the ancestral property of her husband and the petitioners.

7. With these observations, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

09.01.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



Crl.O.P.(MD) No.4771 of 2021

To

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Usilampatti Taluk,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) No.4771 of 2021

R.HEMALATHA, J.

Nsr

Crl.O.P.(MD) No.4771 of 2021

09.01.2024