



Crl.R.C(MD).No.370 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 24.07.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD)No.370 of 2023

and

Crl.M.P(MD).No.4732 of 2024

P.Saravanan

... Petitioner

Vs.

- 1.The Sub Divisional Magistrate/Revenue Divisional Officer,
Madurai Collector Office Complex,
Madurai.
- 2.The Tahsildar (West),
Madurai West Tahsildar Office,
Virattipathu,
Madurai-16.
- 3.The Inspector of Police,
C4-Thilagar Thidal Police Station,
Madurai City.
- 4.The Divisional Officer,
Department of Fire and Rescue,
Fire Service Station,
Periyar Bus Stand,
Madurai-625 001.
- 5.S.Ramesh



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6.Uma Maheswari

7.R.Sakthi Vignesh

8.A.Meera Maideen

9.A.Ramachandran

10.Vijayalakshmi

11.P.Madhupandian

12.P.Rajalakshmi

13.Nanthakumar

14.G.Rajaguru

14.Rooban Jeyakumar

16.Saravanakkumaar @ Saravanan

... Respondents

PRAYER: Criminal Revision Petition has been filed under Sections 397 and 401 of Cr.P.C., to call for the records relating to the order passed in Mu.Mu.No. 414/2023/C on the file of the Sub Divisional Magistrate/Revenue Divisional Officer, Madurai, dated 20.03.2023 and set aside the same as illegal.

For Petitioner	: Mr.P.Saravanan Party-in-person
For R5 and R6	: Mr.I.Pinayagash
For R10	: Mr.S.Ananth
For R11 and R12	: Mr.R.Karunanithi
For R14	: Mr.V.Balaji

* * * * *



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ORDER

The Criminal Revision Case has been filed to call for the records relating to the order passed in Mu.Mu.No.414/2023/C on the file of the Sub Divisional Magistrate/Revenue Divisional Officer, Madurai, dated 20.03.2023 and set aside the same as illegal.

The brief facts of the case :

2. The revision petitioner and the respondents 11 and 12 are siblings. They have number of properties in the city. After the demise of their parents, they entered into a partition. But subsequently they disputed the same and they filed partition suits in O.S.Nos.99 of 2019 and 125 of 2020. The dispute between the petitioner and respondents 11 and 12 resulted in filing of several complaints, by making rival allegations against each other. The third respondent police, registered number of cases, upon receipt of the complaints from both the parties.

3. In the said dispute, the tenant in the premises in Door No.31/1, got distressed, due to which, the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023 filed a suit in O.S.No.597 of 2018, seeking permanent injunction, restraining the petitioner and his brother, from evicting



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him, without due process of law. His specific case is that the property originally belonged to one Kumarasamy Chettiar. He was the tenant of the said premises. Subsequently, that property was purchased by one Devan Mydeen. Devan Mydeen sold the property to the mother of the revision petitioner, namely, Rajalakshmi. In the said sale deed obtained by the Devan Mydeen, it is stated that the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023 was a tenant and the landlord was entitled to evict the same. In the said circumstances, the tenant continued his business and he was containing in the tenancy and during the COVID period, his shop was totally blocked by the revision petitioner and his henchmen.

4. In the said process, the said revision petitioner's Advocate demanded Rs.10,00,000/- Lakhs to reopen the said shop. Therefore, he was forced to file a suit before the civil Court in O.S.No.597 of 2018 to open the shop. Pending the same, many of disputes arose between all the litigants and the number of FIRs were registered. The said dispute led to law and order problem. The jurisdictional Revenue Divisional Officer passed an order under Section 145 of Cr.P.C against the petitioner. In the said proceedings, the Revenue Divisional Officer found that the 11th respondent was in possession of the property. The



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same was challenged by the said revision petitioner, namely, Saravanan in another Criminal Revision Case and the same was allowed by this Court in the year 2020. Subsequently, dispute continued between the parties, on account of many valuables articles that were kept in the premises. In the said circumstances, the tenant, namely, the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023 made a representation to the Revenue Divisional Officer/First respondent herein to permit him to take his articles kept in the rented premises.

5. According to the revision petitioner, he is running the business of selling the agricultural machineries, engine oil motor and all are highly flammable things. The value of the articles kept in the rented premises is more than Rs.1 Crore. Hence, he made a representation to the Revenue Divisional Officer. The Revenue Divisional Officer, once again, after affording opportunity to all the parties passed the impugned order stating that the all parties are prevented from entering the suit premises till the disposal of the suit pending between them and specifically, permitted the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023, to take his articles kept in the godown.



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6. The revision petitioner/Saravanan filed a revision before this Court challenging the said impugned order and this Court, after recording the possibility of the compromise, adjourned the case and granted interim stay with a direction not to proceed further in accordance with the impugned order and subsequently, the interim order was not extended.

7. The petitioner, namely, Saravanan, without co-operating for the final disposal of this case, continuously changed his counsel reading the mind of the Court. This case was posted before this Court 17.04.2024. This Court heard the elaborate arguments made by both sides.

8. That being the situation, the case was subsequently adjourned to 24.04.2024. On that day, the counsel for the petitioner expressed his inability, stating that the previous day evening, the revision petitioner received his bundle back with change of Vakalat. Hence, this Court asked the revision petitioner to appear before this Court and the revision petitioner appeared before this Court and he made his submission. He requested this Court, to allow him engage a counsel, but this Court was not inclined to grant adjournment and hence, he made detailed submission along with his wife. Wife also is a party to the



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proceedings. She made independent submission.

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9. The civil suit is pending between the parties before the competent Civil Court. Pending the civil suit, the first respondent has no jurisdiction to pass the final order under Section 145 of Cr.P.C. The said order was passed without application of mind and without considering the contention raised by them. The order which was passed, at the instance of the tenant, namely, respondents 5 to 6 is not a valid. Apart from that there was no material to invoke the proceedings under Section 145 of Cr.P.C.

10. The learned counsel for the respondents 11 to 16 submitted that the first respondent after considering the materials passed the impugned order. They have not chosen to challenge the said order and also stated that the impugned order was passed after hearing both side parties. The respondents 5 to 7 submitted that the revision petitioner has not allowed to take their goods kept in the godown. Therefore, they created law and order problem. In the said circumstances, the first respondent after considering the materials placed before him passed the impugned order and the same is in accordance with law. He further submitted that as per the interim order passed by this Court, now, the first respondent has taken all the materials except the materials that were found in the



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premises and hence he seeks for the return of the said materials. He further submitted that they are ready to bear the expenditure and also submitted that so far as the refund of the advance amount is concerned, they seek liberty to adjudicate the same before the pending suit.

11. The learned Government Advocate (Crl. Side) appearing for the respondents 1 to 4 submitted that as per the order of this Court dated 29.04.2024 the entire property of the tenants, namely, respondents 5 to 7 were taken and are kept in the proper custody. He further submitted that even after the order passed by this Court in Crl.R.C(MD).No.287 of 2020, there was a rival claim over the possession of the property. Therefore, there is a dispute between the parties, namely, the respondents 5 to 16 and the revision petitioner. Due to the serious dispute between them they made a rival compliant against each other. The property situated is in the prime locality of the Madurai City. Due to the frequent quarrel between the parties, it creates the law and order problem in the said locality. Therefore, the order has been passed with the liberty to the tenants to take over the materials kept in the premises. Before passing the order, all the parties are heard and there was no violation of the natural of justice.



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12. He has also relied upon the Hon'ble Full Bench judgment reported in **(2010) 4 CTC 12.**

13. This Court considered the rival submissions of both side counsels and also perused the materials available on record and also submission of the party-in-person, namely, Thiru. Saravanan and his wife.

14. This Court on the earlier occasion (i.e) on 29.04.2024 passed the detailed order in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023, the same is extracted as follows:-

" The revision petitioner and the respondents 11 and 12 are the brother and sisters. The said brother and sisters have number of properties in the city. After the demise of their parents, they entered into a partition. But subsequently they disputed the same and they filed partition suits in O.S.Nos.99 of 2019 and 125 of 2020. The dispute between the petitioner and respondents 11 and 12 resulted in filing of several complaints, by making rival allegations against each other. The third respondent police, registered number of cases, upon receipt of the complaints from both the parties.

2. In the said dispute, the tenant in the premises in Door No.



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31/1, got disturbed, due to which, the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023 filed a suit in O.S.No.597 of 2018, seeking permanent injunction, restraining the petitioner and his brother, from evicting him, without due process of law. His specific case is that the property originally belonged to one Kumarasamy Chettiar. He was the tenant of the said premises. Subsequently, that property was purchased by one Devan Mydeen. Devan Mydeen sold the property to the mother of the revision petitioner, namely, Rajalakshmi. In the said sale deed obtained by the Devan Mydeen, it is stated that the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023 is a tenant and the landlord is entitled to evict the same. In the said circumstances, the tenant continued his business and he is in occupation of the tenancy and during the COVID period, his shop was totally blocked by the revision petitioner and his henchmen.

3. In the said process, the said revision petitioner's Advocate demanded Rs.10,00,000/- Lakhs to reopen the said shop. Therefore, he was forced to file a suit before the civil Court in O.S.No.597 of 2018 to open the shop. Pending the same, number of disputes arose between all the litigants and the number of FIRs were registered. The said dispute led to law and order problem. The jurisdictional Revenue Divisional Officer passed an order under Section 145 of Cr.P.C against the petitioner. In the said proceedings, the Revenue Divisional Officer found that the 11th respondent is in possession of the property. The same was challenged by the said revision



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accordance with the impugned order and subsequently, the interim order was not extended.

6. The petitioner, namely, Saravanan, without co-operating for the final disposal of this case, continuously changed his counsel reading the mind of the Court. This case was posted before this Court 17.04.2024. This Court heard the elaborate arguments made by both sides.

7. That being the situation, the case was subsequently adjourned to the 24.04.2024. On that day, the counsel for the petitioner expressed his inability, stating that the previous day evening, the revision petitioner received his bundle with change of Vakalat. Hence, this Court asked the revision petitioner to appear before this Court and the revision petitioner appeared before this Court and he made the submission. He requested this Court, to allow him engage a counsel, but this Court was not inclined to grant adjournment and hence, he made detailed submission along with his wife. Wife also is a party to the proceedings. She made independent submission.

8. The learned counsel for the petitioner in Crl.M.P(MD).No. 4732 of 2024 in Crl.R.C(MD).No.370 of 2023 submitted that his articles in the rented premises is kept without being used and hence, he is perpetually incurring loss and the property stored was highly inflammable and perishable and hence, the first respondent correctly



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permitted him to take the articles. Hence, he is concerned with taking of the articles kept in the rented premises.

9. The petitioner/party-in-person appeared before this Court and submitted that he was doing the tyre business in the said premises, in a portion of the property and relating to the tyre business, there was some dispute between his brother and himself. At this juncture, permission was granted to the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023 and there is a serious prejudice caused to him. Apart from that, he stated that the property kept in the godown as alleged by the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD)No.370 of 2023 does not belong to him and hence, he seeks for the dismissal of this interim application.

10. The 11th respondent counsel submitted that the petitioner is running the business without any authority and without any legal right, and he continued the tyre business in the said premises. Hence, he stated that as per the order of this Court his business premises is also to be locked. Hence, he seeks for the dismissal of the main revision.

11. The learned Additional Public Prosecutor, on instructions, submitted that from the reading of the document submitted by the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023, he is the tenant. The revision petitioner caused obstruction



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during the time of COVID Pandemic. The investigation was conducted by the investigation agency. Hence, the revision petitioner, namely, Saravanan made complaint against the police officer through his wife and they had made allegations against the law enforcing authorities. It is true that the number of materials kept in the godown of the rented premises of the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023 are highly inflammable and hence, the Revenue Divisional Officer correctly passed the order, permitting him to take the articles that belonged to him. Hence, he stated that the first respondent passed the impugned the order in accordance with law, considering the pendency of suit and both parties entangled in multiple litigations and also both parties frequently quarrelled in the area which is a business hub leading to law and order problem in that locality.

12. This Court considered the rival submissions made by all parties and considering the submission of the learned Additional Public Prosecutor and the one of the brothers of the revision petitioner, this Court at this stage is not inclined to consider whether the impugned order is in accordance with law or not. But the grievance of the tenant that his goods were inside the premises is to be redressed. At this stage, to decide the said issue, this Court is inclined to dispose of Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023, for which, brief facts are necessary.



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13. From the records and also from the documents filed along with this case, this Court finds that the properties belonged to one Kumarasamy Chettiar and the same was purchased by the Devan Mydeen, by way of sale deed dated 21.07.2004. In the said sale deed, it is clearly stated that the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023 is a tenant of the said premises. Subsequently, the property was purchased by the revision petitioner's mother, namely, Vijayalakshmi and his family members.

14. From the records, it is clear that the suit filed by the petitioner to evict him under due process law is still pending. At this stage, the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023 requested the Court only to allow him take back his properties. The revision petitioner, namely, Saravanan did not produce any document to show that these articles belonged to him. Even according to the plaint filed by him against his brother, it is stated that he is running only tyre business. He is not aware of the fact that the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023 is running the business. The brother of the revision petitioner filed a suit against the revision petitioner Saravanan and the revision petitioner Saravanan filed a suit against his brother. In both the suits, this business is not stated anywhere in the plaint and also in the suit scheduled property. In the said circumstances, this Court is prima facie satisfied that the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023 is a tenant of the premises and also his properties are inside the



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*premises. The RDO also expressed that all properties of the tenant are highly inflammable. Due to their dispute, the properties get ruined. The properties are bread and butter of the petitioner. It is well settled principle that Courts are vested with powers to protect the properties. No one would like to kill the goose that lays the golden eggs. The Honourable Supreme Court, in the case of **Sunderbhai Ambalal Desai Vs. State of Gujarat** reported in **2002 (10) SCC 283**, enlarged the scope of entrusting the interim custody under Section 451 Cr.P.C.*

15.This Court considering the extraordinary circumstances of this case, apply the said principles to this case. Therefore, in the interest of justice, this Court directs the third respondent to open the locked tenanted premises of the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD)No.370 of 2023 and take all the goods preparing an inventory by taking videograph in the presence of the second respondent and keep them in their safety custody and report before this Court with the particulars of the articles kept in the premises and taken by them. This Court directs the Commissioner of Police, Madurai, to depute necessary force required to avert any law and order problem and to remove the materials kept in the tenanted premises of the petitioner in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023. The third respondent is specifically restrained not to take any of the business materials relating to tyre business conducted by the revision petitioner. This Court expresses its hope that the revision petitioner Saravanan would co-operate for



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the compliance of the direction.

16.Hence, this Court posts the matter for reporting compliance of the said order and for passing further orders on 11.07.2024."

15. Even the said order was not challenged either by the revision petitioner or the respondents 11 and 12. As per the order of this Court dated 29.04.2024, the police officials while executing the same, faced serious challenges from the revision petitioner and the Revenue Officials also faced the same. Apart from that they also made no objection to handover the keys to the tenant.

16. In view of that tenants are entitled to repossession of the said goods. The learned counsel for the tenants, namely, the respondents 5 to 7 stated that the number of materials were not found in the said premises. Hence, they seek for appropriate remedy. This Court accepted the request and it is open to tenant to approach the appropriate authority as per the law.

17. So far as the contention of the learned counsel for the petitioner that the first respondent has no jurisdiction to invoke the proceedings under Section



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145 of Cr.P.C., is concerned, this Court considered the Hon'ble Full Bench judgment of the supreme Court and also the various High Courts and also held that there is no bar to invoke the proceedings under Section 145 of Cr.P.C., and the only requirement is to follow the procedure. In this case, the order was passed after hearing both parties.

18. The first respondent also called for report from the law enforcing agency and also perused the entire records and thereafter, passed the impugned order. The first respondent specifically held that due to the dispute between the parties, there was a frequent quarrel in the said shops. In view of that there is a law and order problem in the locality. Apart from that both the parties made several complaints against to each other.

19. The law enforcing agency also submitted that the property is situated in the heart of the Madurai City and in view of that dispute, there is a frequent quarrel and it creates the law and order problem in the said locality. Hence, the first respondent applied his mind and also passed the impugned order. Therefore, this Court finds no grounds to interfere with the order passed by the first respondent.



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20. In view of that there is no ground to interfere with the order passed by the first respondent. Hence, this Court disposes of the revision with the following directions :

(i) The order passed by the first respondent is in accordance with law and the same is not liable to be quashed.

(ii) The tenant, namely, the respondent 5 to 7 are at liberty to file the complaint about the missing of articles

(iii) The tenants/respondents 5 to 7 are entitled to receive the goods from the custody of the first respondent, which has been taken custody as per the order of this Court in Crl.M.P(MD).No.4732 of 2024 in Crl.R.C(MD).No.370 of 2023 dated 29.04.2024. The tenants are directed to pay the costs of Rs.5,25,000/-.

(iv) The petitioner and his brother are entitled to file an application to appoint receiver in the pending suit and the first respondent is directed to follow any direction in the said application issued by the concerned Competent Court.

(v) The tenant is also entitled to recover his advance amount from the parties in the pending suit filed by him.

(vi) The learned trial Judge is directed to dispose of the O.S.Nos. 99 of 2019 and 125 of 2020 pending on the file of the learned VI Additional District



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Judge, Madurai, within a period of six months from the date of receipt of copy of this order.

(vii) Since the Police Officials and Revenue Officials have acted as per the direction of this Court dated 29.04.2024 and taken the custody of the goods and the petitioner also submitted that he has no objection to take custody of the goods and if any complaint had been made against them is not legally maintainable since they had acted in good faith in order to execute the order passed by this Court.

(viii) This Court passed a detailed order in the application filed by the tenant in CrI.M.P(MD).No.4732 of 2024 in CrI.R.C(MD).No.370 of 2023 and the same is treated as part of this order.

24.07.2024

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