



Crl.O.P.(MD)No.20991 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2024

CORAM:

THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN

Crl.OP(MD)No.20991 of 2024

and

Crl.MP(MD)No. 13020 of 2024

1. Edwin

2. Dharmasankar

3.Selvadurai

4.Rajmohan

5.Selvanayagam

... Petitioners / 'B' Parties

vs.

1. The Sub-Divisional Magistrate cum
Revenue Divisional Officer,
Tirunelveli,
Tirunelveli District.

2.The State of Tamil Nadu rep by its,
The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.

... Respondents 1& 2 / Complainants

3.Mohammed Thameem Ansari

4.Mohammed Ismayil



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5.Jareena Banu

6.Nausath

7.Roshana

8.Mumtaj

... Respondents 3 to 8/ 'A' Parties

PRAYER: Criminal Original Petition filed under Section 482 of Crl.P.C, to call for the records of the first respondent, the learned Sub-Divisional Magistrate and Revenue Divisional Officer, Tirunelveli vide his proceedings in Pa.mu.M.C.No.A5/33/2022(145 Cr.P.C) dated 19.01.2023 and quash the same.

For Petitioners : Mr.P.M.Vishnuvarthanan

For R1 & R2 : Mr.K.Sanjai Gandhi
Government Advocate (Crl.Side)

ORDER

This petition has been to quash the impugned order passed by the first respondent in Pa.mu.M.C.No.A5/33/2022 (145Cr.P.C) dated 19.01.2023.

2.There is a dispute between 'A' party/respondents 3 to 8 and 'B' party/petitioners in respect of the property comprised in S.No.18/1 at V.M.Chathiram Village, Palayamkottai Taluk, Tirunelveli District, measuring an extent of 18.28 acres, belongs to T.V.S.Sahul Hameed.



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Subsequently, the entire extent of property was alienated in favour of Kattabomman Pokkuvarathu Kalagam by the legal heirs of the original owner. The said alienation was challenged by the respondents 3 to 8 by way of filing of a suit in O.S.No.39 of 1985 before the Sub Court, Tirunelveli and the same was decreed in favour of the respondents 3 to 8 on 30.11.1989. Challenging the same, the petitioners filed an appeal in A.S.(MD)No.178 of 2017 and the same was dismissed on 26.07.2022. Based on that, the first respondent passed the impugned order dated 19.01.2023 in favour of the respondents 3 to 8. Challenging the same, the present petition has been filed.

3. In view of the above said circumstances, the impugned order passed by the first respondent in Pa.mu.M.C.No.A5/33/2022 (145Cr.P.C) dated 19.01.2023, is in accordance with Section 145 of Cr.P.C., As per Section 145 Cr.P.C., in order to get relief, the petitioners have to establish their possession and enjoyment of the properties on the date of the proceedings under Section 145 of Cr.P.C., Even as per the order and the averments made in this petition, it revealed that the petitioners are not in possession and enjoyment of the properties. Hence, they are not entitled to seek any relief in this petition.



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4. Accordingly, this Criminal Original Petition is dismissed.

However, the dismissal of the petition filed by the petitioners is not a bar to challenge the order passed in favour of the private respondents namely, 'A' party/respondents 3 to 8. Consequently, the connected miscellaneous petition is closed.

02.12.2024

NCC : Yes/No

Internet : Yes/No

Index : Yes/No

dss

To

1. The Sub-Divisional Magistrate and Revenue Divisional Officer,
Tirunelveli.
2. The Sub-Divisional Magistrate cum Revenue Divisional Officer,
Tirunelveli, Tirunelveli District.
3. The State of Tamil Nadu rep by its,
The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN,J.

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