



Crl.R.C.No.130 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2025

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.130 of 2025

and

Crl.M.P.Nos.1126 & 5675 of 2025

Pandurangam

... Petitioner

Vs

1. The Sub Divisional Magistrate
(South), Villianur,
Puducherry.

2. The Station House Officer,
Kirumampakkam Police Station,
Puducherry.

3. Jothikannan

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 read with 401 Cr.P.C./Section 438 read with 442 of the BNSS, to call for the records and to set aside the order dated 06.01.2025 passed in M.C.No.325 of 2024 on the file of the first respondent.



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For Petitioner : Mr.K.Sasindran
For R1 & R2 : Mr.M.V.Ramachandramurthy
Additional Public Prosecutor
Puducherry
For R3 : Mr.A.V.Arumugam

ORDER

This Criminal Revision Petition has been filed seeking to set aside the order dated 06.01.2025 passed in M.C.No.325 of 2024 on the file of the first respondent.

2. When the matter came up for admission on 27.1.2025, this Court granted an order of interim stay in Crl.M.P.No.1126 of 2025. Pursuant to that, the third respondent filed Crl.M.P.No.5675 of 2025 seeking to vacate the interim stay granted on 27.01.2025. However, today, though Crl.M.P.No.5675 of 2025 has been listed for hearing, this Court is inclined to take up the main revision case itself.



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3. The learned counsel for the petitioner submitted that the petitioner, as a power agent of the plaintiffs in O.S.No.796 of 2003 on the file of the Principal District Munsif Court, Pondicherry obtained a decree. Though the said suit was decreed ex-parte on 13.06.2018, the same is not challenged so far by the defendants therein before any Court of law.

4. Further, the learned counsel for the petitioner submitted that when the civil decree is in force, the second respondent herein has filed a petition before the first respondent herein, to initiate proceedings under Section 164 of the BNSS to decide the actual possession of the schedule mentioned property and to prevent the breach of peace likely to be caused by the unlawful acts of the petitioner. But, the first respondent failed to consider the fact that already the competent civil Court passed a decree and judgment regarding declaration and injunction, passed the impugned order, which is against proposition of law. According to him, once the competent civil Court entertained the said suit and granted decree, the first respondent has no authority to entertain a petition under



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Section 164 of the BNSS. Therefore, the order passed by the first respondent is perverse and liable to be set aside.

5. On the contrary, the learned counsel appearing for the third respondent submitted that R3 is in possession of the property, that the petitioner suppressed the material fact that he was not in possession and filed the said suit only for declaration and permanent injunction, that since the petitioner was not in possession, he is not entitled to get a decree for injunction, that subsequently, taking advantage of the exparte decree, the petitioner with the help of some rowdy elements, by using a JCB, damaged the subject property and dispossessed the third respondent. Therefore, the second respondent made a complaint by approaching the first respondent, by invoking Section 164 of the BNSS that after enquiry, the first respondent found that the third respondent was in possession of the subject property and that the first respondent rightly passed the impugned order dated 06.01.2025.



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6. This Court has carefully considered the submissions made by the learned counsel on either side and the learned Additional Public Prosecutor (Puducherry) appearing for the official respondents and perused the materials available on record, more particularly the impugned order.

7. Admittedly, the revision petitioner filed a suit in O.S.No.796 of 2003 before the Principal District Munsif Court, Pondicherry and got an exparte decree on 13.06.2018 for declaration and permanent injunction. Subsequently, the second respondent filed a petition in MC.No.325 of 2024 under Section 164 of the BNSS before the first respondent. But, the first respondent passed the impugned order.

8. On a perusal of the records, it is seen that the first respondent failed to consider the exparte decree passed by the competent civil Court. Though it is an ex-parte decree, the third respondent is stated to have filed an appeal. However, the judgment and decree passed by the learned Principal District Munsif, Puducherry in O.S.No.796 of



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2003 dated 13.06.2018 has not been set aside sofar. Therefore, when the civil Court decree is in force, the first respondent has no authority to entertain a petition under Section 164 of the BNSS. Hence, the impugned order passed by the first respondent is liable to be set aside.

9. Accordingly, the impugned order passed by the first respondent is set aside. However, the third respondent is at liberty to work out his remedy in the manner known to law before the appropriate forum

10. With the abovesaid direction, this Criminal Revision Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

21.03.2025

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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