



Crl.R.C.(MD)No.516 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:09.02.2026

CORAM:

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

Crl.R.C.(MD)No.516 of 2019

and

Crl.M.P(MD)No.6801 of 2019

D.Saravanan

... Petitioner

Vs

The Revenue Divisional Officer cum,
The Sub-Divisional Executive Magistrate,
Aruppukkottai,
Virudhunagar.

... Respondent

Prayer: To call for the records in Na.Ka.A2/4801/2019 dated 15.07.2019 in respect of the petitioner herein pending on the file of the Respondents herein and set aside the same and allow the revision and thus render justice.

For Petitioner : Mr.Babu Rajendran

For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

Heard Mr.Babu Rajendran, learned Counsel for Revision Petitioner and Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor for Respondent.



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2. The present criminal revision is filed challenging the impugned order dated 15.07.2019 invoking Section 141 of Cr.P.C.

3. Learned counsel for petitioner would submit that Chapter X – Part B of Cr.P.C. deals with public nuisance and therefore, an order invoking Section 141 of the Cr.P.C. could be passed only after exhausting the procedure contemplated under Sections 133 to 144A of the Cr.P.C.

4. He would further submit that the impugned order dated 15.07.2019 has been passed without complying with the procedure contemplated/provided under Sections 133 to 144A of Cr.P.C. The impugned order suffers from procedural infirmities which go to the root of legality and validity of impugned proceedings.

5. Learned Additional Public Prosecutor for respondent had produced the file which only contains impugned order. There is nothing to indicate that the procedure contemplated under Sections 133 to 144A of the Cr.P.C., have been complied with.



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6. At this stage, it may be relevant to note that under similar circumstances a batch of writ petitions were filed before this Court in W.P.(MD) No. 7189 of 2019, etc., batch, seeking a writ of mandamus to forbear the respondent from the proposed construction of a public road in the petitioner's patta land comprised in Survey Nos. 19/8 and 19/6 in Poomalaipatti Village, Thiruchuli Taluk, Virudhunagar District, was considered wherein this Court, vide order dated 09.01.2023, allowed the writ petition with the following observations :-

“The only issue that calls for consideration is regarding the nature of the petition mentioned lands. It is beyond dispute that they are patta lands. The petitioners have enclosed the revenue records in the typed set of papers and there is no dispute about the same. However in the settlement land register and FMB, it is seen that a cart track runs across the patta lands. The learned counsel for the petitioners also does not dispute the same. From the averments set out in the counter affidavit, one can come to the conclusion that if the existence of the road is not mentioned in the “A” register but it is shown only as a detailed mark in the FMB, the width is below three meters. In the “A” register as well as other revenue records, there is no specific entry that the subject lands have been classified as a road. On the other hand, from a reading of the settlement land register, one can come to the conclusion that vandi pathai (cart track) runs across the patta lands. A cart track will have to be maintained as cart track. In other words, people can use it for passing through it. There can be a movement of men and materials. However, forming a pucca thar road on a cart track would definitely infringe the rights of the parties. In this case, they have not taken into confidence. There has been no gramma saba meeting approving the formation of thar road. While declaring that the detailed mark as shown by the respondents indicates only the existence of cart track on ground, it has to be maintained only as cart track and the questioning of converting is as a pucca thar road does not arise.”



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7. Learned Additional Public Prosecutor for respondent would submit that the State has carried the matter by way of a writ appeal and that the same is pending in W.A.(MD)No.2047 of 2023. He would only request that impugned order setting aside the proceedings under Section 141 of the Cr.P.C. should not stand in the way of urging all contentions that may be available in writ appeal.

8. In view thereof, this Court is inclined to set aside the impugned order dated 15.07.2019. Accordingly, this criminal revision petition stands disposed of. However, it is always open to respondent to pass orders afresh after complying with the mandatory procedural mandate contained in Sections 133 to 144A of the Cr.P.C. No costs. Consequently, connected miscellaneous petition is closed.

09.02.2026

Index :yes/No
Internet:yes/No
rgm



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MOHAMMED SHAFFIQ,J.

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