

**(2014) 11 MAD CK 0512**

**Madras High Court**

**Case No:** Crl. O.P. No. 19432 of 2013 and M.P. No. 1 of 2013

S. Rajasekaran

APPELLANT

Vs

The Revenue Divisional Officer

RESPONDENT

**Date of Decision:** Nov. 10, 2014

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 145

**Hon'ble Judges:** S. Nagamuthu, J

**Bench:** Single Bench

### **Judgement**

@JUDGMENTTAG-ORDER

S. Nagamuthu, J.

Seeking to quash the proceedings initiated by the first respondent by his proceedings, in Na.Ka.No. 3158/2013/A, dated 12.07.2013, under Section 145 of the Code of Criminal Procedure, the petitioners, who are "B" party in the said proceedings, have come up with this petition. "A" party in the case are one K. Sundarbabu and Hari Saravanan.

2. I have heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the respondents and I have also perused the records carefully.

3. According to the petitioners they have purchased a property comprised in S.No. 45/1, measuring 4263 sq.feet in the year 1999 and they have been in possession of the same. They have constructed a building also on the same and thus, according to the petitioners, they are in possession and enjoyment of the said property.

4. From the counter filed by the Revenue Divisional Officer, Chengalpattu, it is seen that one Mr. K. Sundarbabu made a complaint to the Superintendent of Police on 17.11.2011 alleging that the said property was in fact purchased only by him for a consideration of Rs.54,000/-, on 13.11.1999, from one Ravi and Durai and in which,

the first petitioner herein only negotiated. But the first petitioner thereafter had encroached upon the said property and has constructed a building thereon. The counter further proceeds to say that the Inspector of Police found that there was no offence committed requiring investigation. He further found that the land belongs to the Government, as it is a poramboke land. Therefore, he referred the matter to the Revenue Divisional Officer for further action. The counter further proceeds to say that the Revenue Divisional Officer, on verification of the records, found that the said land comprised in S.No. 45/1 has been classified as Kuttai Poramboke and the same belongs to the Government. But the Revenue authorities have not taken any steps so far to evict the encroachments. In other words, no proceedings have been initiated to evict the petitioners from the disputed land. The counter further proceeds to say that since there was likelihood of breach of peace, the above said proceedings under Section 145 of the Code of Criminal Procedure was initiated.

5. Learned Senior counsel for the petitioners would submit that absolutely there was no ground to initiate proceedings under Section 145 of the Code. He would take me through the records to substantiate his contention that the petitioners have been in possession and enjoyment of the property right from 1999. Thus, according to him, the initiation of proceedings is purely without jurisdiction.

6. The learned Additional Public Prosecutor would submit that since there was likelihood of breach of peace, the proceedings was initiated.

7. I have considered the above submissions.

8. Even in the counter it is stated that the petitioners were in possession of the property. Whether the land is a poramboke land or not, it is for the authorities to take action. As of now since even in the counter it has been admitted that the petitioners have been in possession of the land, the apprehension of breach of peace does not arise. If Mr.K.Sundrababu has got any rival claim for title or possession, it is for him to work out his remedy in the manner known to law. I only say that there are no grounds made out to proceed under Section 145 of the Code of Criminal Procedure. Thus, the above proceedings is liable to be quashed.

9. In the result, the criminal original petition is allowed. The proceedings in Na.Ka.No. 3158/2013/A, dated 12.07.2013, is hereby quashed. However, it is made clear that it is open to the parties to work out their civil remedies before the appropriate forum. Connected miscellaneous petition is closed.