

(1916) 10 MAD CK 0045
In the Madras High Court

In Re: Medai Dhalavoy Tirumala-Yappa Mudeliar

Date of Decision : 13-10-1916

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 145

Citation : 37 Ind. Cas. 524

Hon'ble Judges : Krishnan, J

Bench : Single Bench

Judgement

Krishnan, J.—This is an order u/s 145 of the Code of Criminal Procedure, which is sought to be revised. It is admitted that a revision does not lie except on the ground of jurisdiction, but it is argued that as the petitioner in the lower Court was not in actual possession this Section does not apply.

2. It is, however, clear that a dispute as to the right to collect rents is a dispute concerning tangible Immovable property or land. See *Abhayessari Debi v. Shidhessdri Debi* 8 Ind. Dec. 339. and also *Sarbananda Basu Mozumdar v. Pran Sanhar Roy Chowdhuri* 7 Ind. Dec. 935.

3. It is next urged that the breach of the peace apprehended was one between the petitioner's tenants and the counter-petitioners and not between the latter and the petitioner. To take action u/s 145 it is sufficient if the Magistrate is satisfied that there is a dispute concerning land which is likely to lead to a breach of the peace. The apprehended breach need not be actually between the rival claimants but only on account of the dispute.

4. It is lastly urged that on the authority of the case of *Posuka Kulla v. Tandalagara Chikka Hina* 17 M. L.J. 449 this application should be allowed. But I find in this case the Magistrate did set out the grounds of his belief of the likelihood of the breach of the peace, as he believed the statement to that effect made by the petitioner.

5. He has also found in his present order that such likelihood did exist.

6. I, therefore, dismiss the petition.