

(1909) 04 MAD CK 0037
In the Madras High Court

Pasupathy Mudali and Others

APPELLANT

Vs

A. Subramanya Gurukkal

RESPONDENT

Date of Decision : 08-04-1909

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 145

Citation : 2 Ind. Cas. 428

Hon'ble Judges : Abdur Rahim, J

Bench : Single Bench

Judgement

Abdur Rahim, J.—This order is clearly illegal and must be set aside. The Magistrate has passed the order without in any way trying to conform to the provisions of Section 145, Criminal Procedure Code, which requires that proper proceedings must be drawn up and both parties be, allowed an opportunity to state their respective cases and prove their claims by evidence. Here the Magistrate states that the police report showed that the counter-petitioners admitted that the petitioner was in possession of the property in dispute, and without instituting any proceedings and giving notice of the same to the parties and hearing what they had to say, passed an order declaring that the counter-petitioners had no right to disturb the enjoyment of the land by the petitioner. u/s 145, Criminal Procedure Code, the Magistrate can declare one of the contending parties to be in possession of the property in dispute after trying the question in Court according to the procedure laid down in the Criminal Procedure Code.