
(1912) 04 MAD CK 0079
In the Madras High Court

Srinivasa Pillay

APPELLANT

Vs

Sathayappa Pillay and Others

RESPONDENT

Date of Decision : 19-04-1912

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 145(4)

Citation : 14 Ind. Cas. 759

Hon'ble Judges : Sankaran Nair, J

Bench : Single Bench

Judgement

Sankaran Nair, J.—The Sab-Divisional Magistrate passed an order u/s 145, Clause 4, of the Criminal Procedure Code, attaching certain land together with the crops harvested and rents received since the beginning of the disturbance." These petitions are filed to set aside that order. It is first argued that the dispute is one between trustees of the same temple, and, therefore, the Magistrate has no jurisdiction to pass such an order. As to this, it is enough to say that the possession and the right to such possession of the lessee, who is the petitioner before this Court, is also involved, and that the two trustees do not concede that the other trustee was or is in possession. It may be that, on inquiry, the facts found may not justify any interference on the part of the Magistrate, but I see no reason to interfere with the order at this stage on that ground.

2. The next question argued is, that the Magistrate had no jurisdiction to pass any order with reference to crops which have been harvested and removed from the land. The Magistrate's order is confined to crops harvested since the beginning of the disturbance. It is not shown that it has reference to any crops harvested before. The Magistrate had certainly jurisdiction to deal with the crops on the land at the date of the order in Clause (1). He has jurisdiction, in case of forcible and wrongful dispossession, to treat the person so dispossessed as the person in possession for the purpose of that section. This involves his right, it appears to me, to deal with the crops which may have been on the land at the time of dispossession. It does not appear, from the order, when the crops were

actually removed.

3. It is possible that facts may be elicited on further inquiry to show that the crops were removed under such circumstances that the section would not apply. But that is no reason for interfering at this stage. Lastly, it is argued that the order appointing a Receiver is wrong, as such power is conferred only by Section 146, Clause (2), when the attachment is made under Clause (1) of that section.

4. The Receiver appointed under that Section 146 has got the power of a Receiver appointed under the Code of Civil Procedure. He is invested by law with powers which he can exercise himself. But the Receiver appointed under this Section 145 may not have such powers. He will only be an agent or servant of the Magistrate acting under his order. It is an administrative order passed for the management of property which he has attached. The right to attach carries with it the right to take the necessary steps for its custody and management. It is not a judicial order concerning the petitioners.

5. I dismiss the petition.