

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.10538 of 2015

M/s.Kiva Estates Private Limited,
rep. by its Director
Cdr.Raj Kumar Suri (Rtd)
117, Sector A, Kammanahalli Main Road
Bangalorew 560 043.

... Petitioner

Vs

1.Lakshmaiah
2.Thimmarayappa
3.Venu

4.The Inspector of Police,
Baglur Police Station,
Hosur, Krishnagiri District.

... Respondents

Criminal Original Petition filed under Section 436(2) Cr.P.C. to cancel the bail order passed on 27.9.2013 by the learned District and Sessions Judge, Krishnagiri in Crl.M.P.No.1754 of 2013 in Crime No.720 of 2013 on the file of the respondent police.

For Petitioner : Mr.B.Harikrishnan

For Respondents : Mr.I.Abrar Md.Abdullah for RR1 to 3.
Mr.M.Mohamed Riyaz,
Govt. Advocate (Crl. Side),
for R.4

ORDER

The present criminal original petition has been filed to cancel the bail order passed on 27.9.2013 by the learned District and Sessions Judge, Krishnagiri in Crl.M.P.No.1754 of 2013 in Crime No.720 of 2013 on the file of the respondent police.

2. The petitioner is the de facto complainant and the respondents 1 to 3 are A.1 to A.3 in Crime No.720 of 2013 on the file of the fourth respondent police.

3. The case of the petitioner, in brief, is as follows:-

(a) The petitioner is the sole and absolute owner in exclusive and uninterrupted possession and enjoyment of the lands comprised in Survey No.7/5 measuring to an extent of 1.37.0 Hectares situated in Kagganur Village, Sevaganapalli Post, Hosur Taluk, Krishnagiri District, having purchased the same for valuable consideration from one Thimmakka and ten others under a sale deed dated 15.3.2008, which was registered as document No.3670 of 2008 in the office of Sub Registrar, Hosur. After purchase, the petitioner had planted Eucalyptus saplings. Further, mutation of records was also effected in the name of the petitioner and patta No.403 was issued in their name. All along, the said land was reckoned and recognized only as a private property.

(b) While so, respondents 1 to 3 started to interfere with the petitioner's peaceful possession and enjoyment of the said land. On 14.2.2014, when the petitioner tried to make a brick boundary wall on the eastern side of their land in Survey No.7/5, the respondents 1 to 3 threatened them stating that they would instal the statute of Dr.Ambedhkar on the eastern side of the petitioner's land and further, they have created law and order problem. Hence, a complaint was lodged by the petitioner before the fourth respondent police and the same was registered in Crime No.720 of 2013. Thereafter, the respondents 1 to 3 filed a petition in Crl.M.P.No.1754 of 2013 for anticipatory bail before the learned Principal District and Sessions Judge, Krishnagiri and the learned Judge has granted anticipatory bail to them. Now, the present petition has been filed by the petitioner herein for cancellation of the anticipatory bail granted by the learned Principal District and Sessions Judge, Krishnagiri.

4. Learned counsel appearing for the petitioner submitted that after granting anticipatory bail, the respondents 1 to 3 are repeatedly interfering with the petitioner's peaceful possession and enjoyment of the said land. Further, he has submitted that the respondents 1 to 3 have also shifted the boundaries fixed by the revenue authorities in the petitioner's land. Thus, the respondents 1 to 3 are abusing the concession given to them. Hence, he sought to cancel the bail order passed on 27.9.2013 by the learned learned District and Sessions Judge, Krishnagiri in Crl.M.P.No.1754 of 2013.

5. However, I am of the opinion, the petitioner has not made out any valid ground to cancel the anticipatory bail granted to the respondents 1 to 3. At the time of granting anticipatory bail, the learned District and Sessions Judge, Krishnagiri imposed a condition that the respondents 1 to 3 shall appear before the fourth respondent police daily at 10.00 a.m. until further orders. So far as the said condition is concerned, the respondents 1 to 3 are scrupulously complying with the said condition. Only in the event of the respondents 1 to 3 fail to comply with the said condition, this Court can cancel the anticipatory bail granted to them. So long as they are complying with the condition, it cannot be said that the respondents 1 to 3 are abusing the concession given to them. In this

regard, a reference could be placed in the judgment of the Hon'ble Supreme Court reported in (1995) 1 Supreme Court Cases 349 - Dolat Ram and others v. State of Haryana, wherein it has been held as follows:-

" Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail already granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail already granted. Generally speaking, the grounds for cancellation of bail broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial."

6. In yet another decision reported in (2009) 10 Supreme Court Cases 652 - Hazari Lal Das v. State of West Bengal and another, the Hon'ble Supreme Court by relying upon the above said decision in the case of Dolat Ram and others v. State of Haryana reported in (1995) 1 Supreme Court Cases 349, has held as follows:-

" 7. There is nothing on record that there has been interference or attempt to interfere with the due course of administration of justice by the appellant. It also does not appear from the record that the concession granted to him has been abused in any manner. No supervening circumstances have surfaced nor shown justifying cancellation of anticipatory bail. The judicial discretion exercised by the Sessions Judge in granting the anticipatory bail has been interfered with by the High Court in the absence of cogent and convincing circumstances. We are, thus, satisfied that the impugned order cannot be sustained."

7. The dictum laid down in the above cases would clearly show that once anticipatory bail is granted, the same cannot be cancelled in a mechanical manner. Only if there is any abuse of concession granted to the accused, then only the Court can cancel the anticipatory bail. In the instant case, though it is the submission of the learned counsel appearing for the petitioner that after granting anticipatory bail, the respondents 1 to 3 are interfering

with his peaceful possession and enjoyment of the property, the same cannot serve as a ground for cancelling the anticipatory bail granted to them. If the petitioner is having any grievance as against the respondents 1 to 3 with regard to their interference in the property, they have to work out their remedy only in the manner known to law and on the ground alone, the anticipatory bail already granted to the respondents 1 to 3 cannot be cancelled.

8. For all the reasons stated above, I am of the opinion, the petitioner has not made out any case to cancel the anticipatory bail granted to the respondents 1 to 3 in CrI.M.P.No.1754 of 2013 dated 27.9.2013 by the learned District and Sessions Judge, Krishnagiri.

9. In fine, the petition is dismissed.

sbi

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Principal District and Sessions Judge,
Krishnagiri.
2. The The Inspector of Police,
Baglur Police Station,
Hosur, Krishnagiri District.
3. The Public Prosecutor,
High Court, Chennai.

+ 1 cc to Mr.I.Abrar Md.Abdullah, Advocate SR 11732

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