



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Sixteenth day of February Two Thousand Fifteen

PRESENT

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THE HON`BLE MR JUSTICE P.N.PRAKASH

CRL OP(MD) No.1748 of 2015

M.MOHAMED DHAMSUDHEEN

... PETITIONER / ACCUSED No.1

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
ANTI LAND GRABBIN CELL,
TRICHY CITY, CRIME NO.2/2015

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.A.RAJENDRAN, Advocate

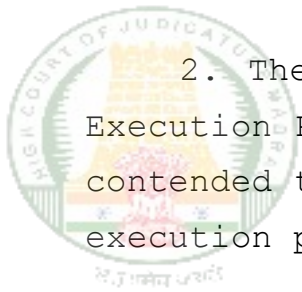
For Respondent : MR.P.KANNITHEVAN, Govt. Advocate (Criminal Side)

For Intervener : MR.K.M.KARUNAKARAN, Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

It is the case of the prosecution that the property in question earlier belonged to one Syed Hussain Sahib (Inamdhar). The said Syed Hussain Sahib was a very affluent person and he had lot of property. He had three wives viz., Najima Bee, Jaina Bee and Halima Bee. One Natesan Chettiar purchased the property from the legal heirs of Syed Hussain Sahib by a sale deed dated 22.04.1955 in document No.1159/1955. From the legal heirs of the said Natesan Chettiar, the *defacto complainant* purchased the property by sale deed dated 15.03.2012 in document No.1801/12. While so, the petitioner herein claims title over the property through an alleged oral Hiba namely Dana settlement gift allegedly given by Halima Bee, the third wife of Syed Hussain Sahib to her sister on 21.03.1985 and from that sister the property devolved upon her son Mohammed Fazludeen and from Mohammed Fazludeen, the property is supposed to have devolved upon Mohamed Dhamsudheen, the petitioner herein.



2. The learned counsel for the petitioner took me through the Execution Proceedings in E.P.No.47 of 2001 in O.S.No.276 of 1993 and contended that he acquired possession through Court Amin in the said execution proceedings.

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3. On the contrary, it is pointed out to me that the suit in O.S.No.276 of 1993 has been filed by Mohamed Dhamsudheen against one Shajahan, who has nothing to do with either Natesan or the *defacto complainant* herein. Natesan Chettiar purchased the property in the year 1955 itself and the said suit is filed in the year 1993. But Natesan Chettiar's legal representatives were not made as defendants in that suit. Therefore, there is some force in the argument by the learned counsel for the *defacto complainant* without joining proper parties, the petitioner has filed a sham suit.

4. The learned counsel for the petitioner submits that this Court had granted anticipatory bail to the co-accused in this case.

5. It is true that this Court granted anticipatory bail in CrI.O.P.(MD)No.547 of 2015 on 22.01.2015 filed by one M.I.Thuphal Ahamed and I.Shila Begum because this Court found that they were innocent purchasers of the property from the petitioner.

6. Since the allegations against the petitioner are very serious, this Court is not inclined to grant anticipatory bail and hence, the same is dismissed. However, whatever this Court has stated above shall in no way prejudice any party before the Civil Court proceedings and this findings are only in respect of this anticipatory bail application.

sd/-
16/02/2015

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

- 1 THE INSPECTOR OF POLICE, ANTI LAND GRABBING CELL, TRICHY CITY.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

WEB COPY +1. CC to M/S.V.KARTHIKEYAN, Advocate SR.No.7160.

+1. CC to M/S.K.M.KARUNAKARAN, Advocate SR.No.7414.

ORDER IN
CRL OP(MD) No.1748 of 2015
Date :16/02/2015

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