



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

Wednesday, the Eighth day of July Two Thousand Fifteen

WEB COPY

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CRL OP(MD) No.7183 of 2015

1 KARUPPASAMY GOUNDER
2 MAGUDEESWARAN
3 PERIYASAMY

..PETITIONERS/ACCUSED 5 to 7

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
ANTI LAND GRABBING SPECIAL CELL,
DINDIGUL DIST.
(CRIME NO. 145 OF 2014)

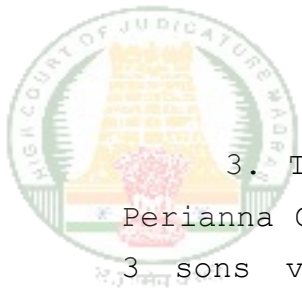
... RESPONDENT/COMPLAINANT

For Petitioners : M/S.T.LENIN KUMAR Advocate
For Respondent : Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.
ORDER : The Court Made the following order :-

The petitioners, who are arrayed as accused Nos.5 to 7, apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 465, 468 and 506(i) of I.P.C., in Crime No.145 of 2014 on the file of the respondent police and hence, seek anticipatory bail.

2. According to the de-facto complainant viz., C.Muthupandi, the accused have purchased 0.42 cents in Survey No.120 and 1.58 acres in Survey No.119/4 of Thattankulam Village from Samyappa Naicker and Perumal Naicker through a registered sale deed dated 25.08.1980, but filed the suit claiming right to an extent of 1.47 acres in Survey No.120 by creating documents and it is further alleged that the de-facto complainant had entered into an agreement with the legal heirs of Samiappa Naicker and Perumal Naicker to purchase 1.05 acres and he has been in possession of the property and the accused attempt to grab the same.



3. The learned counsel for the petitioners submitted that one Perianna Gounder had purchased 4.41 acres in Survey No.120 and he had 3 sons viz., Karuppanna Gounder, Nachimuthu Gounder and Veerana Gounder. The said Perianna Gounder had sold the entire property 4.41 acres to his first son and thereafter, the said Karuppanna Gounder also purchased 1.58 acres in Survey No.119, thereby he was absolute owner of 5.99 acres. In the family partition, the entire land was divided among three brothers viz., Karupannan Gounder, Natchimuthu Gounder and Veerapa Gounder and each got two acres and after demise of the said Perianna Gounder, his son Natchimuthu Gounder along with his legal heirs sold the entire two acres in Survey Nos.119/4 and 120 to Samyappa Naicker and Perumal Naicker by a registered sale deed dated 01.04.1972 and at that time, the property was not divided by metes and bounds and it was in common enjoyment.

4. The learned counsel for the petitioners further submitted that the petitioners purchased entire two acres in Survey No.119/4 and 120 from the said Samyappa Naicker and Perumal Naicker through a registered sale deed dated 25.08.1980 and after purchase, the petitioners instituted a suit in O.S.No.214 of 1986 before the Additional Sub Court, Dindigul seeking partition and separate possession. A preliminary decree was passed on 17.03.1993 and thereafter, the petitioners filed an application for passing final decree and the application is still pending. The learned counsel for the petitioners also submitted that taking advantage of the wrong description in the schedule of properties, in the sale deed dated 25.08.1980, the de-facto complainant had entered into an agreement with the legal heirs of Samiappa Naicker and Perumal Naicker with regard to 1.05 acres and claims possession.

5. The learned counsel further submitted that when the Samiappa Naicker and Perumal Naicker had sold the entire lands in Survey Nos.119/14 and 120, their legal heirs have no right or interest in the property at all and that the said Samiappa Naicker and Perumal Naicker were added as the defendants in O.S.No.214 of 1986 and they have not challenged the preliminary decree passed in favour of the petitioners on 17.03.1993. The learned counsel further submitted that the petitioners are innocent and they have been falsely roped in this case.



6. The learned Government Advocate (Crl.side) submitted that the de-facto complainant had entered into an agreement with the legal heirs of Samiappa Naicker and Perumal Naicker to purchase 1.05 acres. However, the accused are claiming right over the property by fabricating documents.

7. Considering the facts, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or on their appearance before the learned Judicial Magistrate No.II, Dindigul and on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that the petitioners shall appear before the respondent police daily at 10.00 a.m. until further orders. The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

8. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

sd/-
08/07/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

- 1 THE JUDICIAL MAGISTRATE NO.II, DINDIGUL.
- 2 -DO- THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 4 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, ANTI LAND GRABBING
SPECIAL CELL, DINDIGUL DIST

+1. CC to M/S.T.LENIN KUMAR Advocate SR.No.37391

akm/14.07.15 /2p-6c/

ORDER
IN

CRL OP(MD) No.7183 of 2015
Date :08/07/2015