

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.6384 of 2015

ORDER :

The petitioner is A.1 of Crime No.440 of 2014 of Jeedimetla Police Station, Cyberabad, registered for the offences punishable under Sections 416, 419, 417, 441, 447, 503 and 506 IPC. The complainants, who are respondent Nos.2 and 3 of the quash petition, filed a private complaint against as many as nine accused persons including the petitioner/A.1 on 16.05.2014 before the VI Metropolitan Magistrate Court, Cyberabad at Medchal, and the learned Magistrate in turn referred the matter to the police for investigation which reads as follows:

“Referred to S.H.O, Jeedimetla, for investigation under Section 156(3) Cr.P.C. and to report on or before 17.06.2014”

The said reference of the private complaint was received by S.H.O., Jeedimetla, on 31.05.2014 and registered it as F.I.R. in Crime No.440 of 2014 for the offences referred supra and took up investigation.

2. The averments in the private complaint speak that the land admeasuring Ac.73.22 gts. in Sy.No.222 of Gajularamaram Village, Quthbullapur Mandal, Ranga Reddy District, was an Inam land belongs to one Mir Gulzar Ali. Later, the names of G.Suryanarayana Raju, K.S.N.Raju, K.Krishna Murthy, T.Annapurna, T.Venkata Subba Rao, T.Rangaiah, U.K.Durgamma, Sree Ram Jaya Devi, R.Chinna Gurumurthy, A.Annapurna, A.Nirmala Rani, A.Venkateshwara Rao, A.Srinivasa Rao, G.Jagan Mohan Rao, P.Rani, Pramila and B.Veerabhadra Rao are recorded as occupants and they filed an application in Form-I before the Revenue Divisional Officer, Ranga Reddy District East Division, (RDO) for grant of Occupancy Right Certificate (ORC), vide proceedings No.J/718/1994 the RDO passed orders, there under registering the names of G.Jagan Mohan Rao and R.Chinna Gurumurthy along with others as Inamdars and

occupants of the land and issued ORC in Form-III on 16.09.1994 in their favour conferring the absolute ownership upon them for respective extents detailed in the complaint at para 1.3. Pursuant to the ORCs, G.Jagan Mohan Rao got the land of Ac.4.00 gts. and R.Chinna Gurumurthy got the land of Ac.5.00 in Sy.No.222 and their names were incorporated in the revenue records accordingly. Subsequently, G.Jagan Mohan Rao executed an agreement of sale-cum-General Power of Attorney (GPA) on 03.09.1998 in favour of the complainants and one K.Sai Baba to convey the land of Ac.3.08 gts., out of his land, vide registered document bearing No.2638 of 1999 and later executed sale deed conveying an extent of Ac.2.08 gts., out of Ac.3.08 gts., vide registered document bearing No.10338 of 2001. Similarly, R.Chinna Gurumurthy executed GPA on 03.09.1998 (even date) in favour of complainants and K.Sai Baba supra for an extent of Ac.4.00 gts., out of his extent, vide registered document bearing No.2639 of 1999 and later executed sale deed for an extent of Ac.2.15 gts., out of Ac.4.00 gts., vide registered document bearing No.10339 of 2001. Thus, the complainants were became absolute owners and possessors of the said land of Ac.7.08 gts. in Sy.No.222 of Gajularamaram Village. While so, the complainants came to know that A.1 to A.9 of the complaint along with their men began entering into their property without any right or title, acquired the land allegedly by claiming right and title over it, from one of the ORC holder by name K.S.N.Raju basing on fabricated and forged documents of a deceased person by impersonation and started threatening the complainants with dire consequences.

3. So far as the petitioner-A.1 is concerned, it is mentioned in the complaint regarding the offence allegedly committed by him that he is impersonating himself as K.S.N.Raju of Krishna District, though he is unconnected with the property, and tried to set up a false claim against the property of the complainants, which he purchased through registered sale deeds allegedly executed by K.S.N. Raju and in turn he has sold the so-called property to A.2 to A.9. It is further alleged that the petitioner managed to tamper the revenue records

and created nuisance and the so-called sale deed allegedly executed by K.S.N.Raju, which is impersonated by A.1 with forged signature by affixing his photo in the place of K.S.N.Raju as an executant by claiming as if he is K.S.N.Raju in the respective sale deeds executed by him in favour of some of the accused on 21.04.1999 and 28.09.1998 and pursuant to which, A.1 obtained pattadar passbooks and title deeds for illegal gain. The complainants came to know all these aspects, approached S.H.O., Jeedimetla on 05.12.2013 to register a crime against A.1 to A.9. However, S.H.O., Jeedimetla did not receive the complaint, thereby the complainants sent a written complaint by registered post to the S.H.O., Jeedimetla and Assistant Commissioner of Police, Cyberabad and also to the Commissioner of Police, Cyberabad, Gachibowli, on 06.12.2013, which they received and acknowledged, but no crime is registered. With no other alternative, they constrained to file the complaint seeking to take cognizance against the accused persons or in the alternative to refer the complaint to police for investigation. The so-called written complaint of the complainants dated 05.12.2013 sent by registered post on 06.12.2013 to Jeedimetla Police Station along with the documents, which are covered in the list of documents. Among 21 documents, the postal receipts vide document No.21 and the so-called impersonation by A.1 of K.S.N.Raju as if K.S.N.Raju by affixing the photo of A.1 in execution of the sale deeds, besides the ORC obtained by 16 persons including K.S.N.Raju for Ac.5.10 gts and the vendor of the complainants viz., R.Chinna Gurumurthy and G.Jagan Mohan Rao, show that all the sale transactions of 1998 and 1999 pursuant to the ORC certificates of 1994, A.5-Dr.T.K.M.Chattarji filed Crl.P.No.3352 of 2015 and obtained stay of all further proceedings dated 23.04.2015 (another bench of this Court) that is also enclosed with the quash petition.

4. Later, the petitioner filed additional material vide memo dated 20.07.2015 in U.S.R.No.4644 of 2015, which is decree and judgment in A.S.No.296 of 2006 on the file of the I Additional District Judge, R.R.District at L.B.Nagar dated 13.06.2014. A perusal of which shows

that O.S.No.612 of 1999 was filed on the file of the II Additional Senior Civil Judge, R.R.District at L.B.Nagar by four plaintiffs, who are Dr.Ratnam V.Mullapudi, Dr.Nalini Mullapudi, Jyothi Mullapudi and Usha Mullapudi Cardiac Centre representing by its Managing Trustee Dr.Ratnam V.Mullapudi against the defendants viz., G.Jaganmohan Rao, R.China Gurumurthy, G.Hari Babu, Sai Baba and Smt.K.Naga Sreedevi, for the relief of permanent injunction and the same was decreed. Impugning the said decree and judgment, the 1st complainant to the private complaint, who is defendant No.3 in the suit, preferred the appeal and the appeal was also ended in dismissal by decree and judgment dated 13.06.2014. A perusal of plaint averments in A.S.No.296 of 2006 show, plaintiff Nos.1 and 2 therein purchased Ac.1.00 gts. of land and plaintiff No.3 purchased Ac.3.00 gts. of land out of Ac.5.00 from K.S.N.Raju under different sale deeds bearing No.5380/1998, 5381/1998 and 5382/1998 dated 28.09.1998 in Sy.No.222 of Gajularamaram Village and started construction of a Cardiac Hospital in the name of plaintiff No.4 Trust in an extent of Ac.15.00 gts. in Sy.No.222, adjacent to the suit land. Plaintiff Nos.1 to 3 leased out the land purchased from K.S.N.Raju supra under lease agreement dated 04.01.1999 with averments that the entire land of Sy.No.222 of Gajularamaram Village is an Inam land and sixteen persons obtained occupancy certificates to an extent of Ac.73.00 gts., at the rate of Ac.4.00 to Ac.5.00 gts. each, and out of it, Ac.62.00 gts. of land is situated to the South and Ac.10.00 gts. situated on the North of the said road, which leads to Gajularamaram Village and they were entered into a memorandum of understanding indicating which piece of land belongs to whom with sketch map showing the location appended to the memorandum of understanding. Defendant No.1 to the suit by name G.Jaganmohan Rao, who is the ORC holder to the extent of Ac.4.00 gts. and defendant No.2-R.China Gurumurthy, who is also the ORC holder of Ac.5.00 gts., have entered into an agreement of sale in favour of complainants, who are respondent Nos.2 and 3 in the quash petition. Defendant No.1 also executed GPA dated 03.09.1998 in favour of defendant No.4-Sai Baba and defendant No.2 R.China Gurumurthy also executed GPA

in favour of defendant No.3, who is complainant No.1, dated 29.10.1998 and they applied for sanction of the layouts and on account of mistake in mentioning boundaries therein, the boundaries were overlapped and defendant Nos.1 and 2 executed a separate rectification deeds dated 29.07.1999 and 14.09.1997 respectively and that defendant Nos.1 and 2 issued paper publication with regard to the revocation of GPA of defendant No.4 and execution of rectification deeds, but still defendants are trying to interfere with the plaintiffs' possession and enjoyment of the property. Among defendants, defendant Nos.1 and 3 filed separate written statements. Defendant No.1 in his written statement supported the contention that plaintiffs are in possession and enjoyment of the suit property and started to construct hospital and they were already erected tin sheet rooms therein. It is further stated that there were mistakes in respect of scheduled property with overlapping boundaries, defendant No.1 has executed rectification deed and also cancelled GPA executed in favour of defendant No.4 and issued paper publication. It is submitted that defendant No.1 has no land adjacent to the suit property and that he has no claim and there is no cause of action against him to maintain the suit. Whereas, the contesting party i.e., complainant No.1 stated that he has acquired various extents of land, covering Ac.63.00 gts., situated on the southern side of 60 feet road in Sy.No.222 of Gajularamaram Village from ORC holders and applied for sanction of layout in respect of Ac.33.00 gts. of land and on request of plaintiff No.1 he himself and his daughter sold Ac.9.00 gts. on the eastern side of 60 feet road, which was purchased by him from A.Srinivasa Rao and B.S.N.Raju, original ORC holders, and after sale of said Ac.9.00 gts. to plaintiff No.1, defendant No.3 submitted revised layout to HUDA in respect of Ac.18.13 gts. situated on East of Ac.9.00 gts. sold to plaintiff Nos.1 and 2 supra and later defendant No.3 started developing the land situated towards east of Ac.9.00 gts. to plaintiffs and laid 40 feet road and when plaintiffs approached HUDA for permission to develop Cardiac Centre, for which HUDA insisted plaintiff to obtain consent from defendant No.3 and others to permit the plaintiffs to have 40 feet road to reach Cardiac centre, as

such, defendant No.3 filed an affidavit giving consent and permitted the workers engaged for construction for the Cardiac Centre to use part of their land covered by draft layout out of Ac.18.30 gts. for erecting temporary sheds. Thus, the plaintiffs have no right or possession over the land and with a view to grab the property, they obtained four registered sale deeds by mentioning false boundaries in respect of Ac.4.00 gts. of land purchased from K.S.N.Raju out of his Ac.5.00 gts on the northern side of 60 feet road. Defendant No.1 sold Ac.3.08 gts. to the complainants-defendant No.3 and his wife, and executed GPA bearing document No.2638/1999 dated 03.09.1998 in respect of Ac.0.32 gts. out of his Ac.4.00 gts. in favour of N. Appa Rao and inducted them into possession. Defendant No.3 and his co-purchaser have been in possession and enjoyment of the suit land and plaintiffs never in possession of the suit property, but they were temporarily permitted to construct huts and a big water sump in a portion of suit land for utilization of labour being engaged for construction of hospital in their adjacent Ac.9.00 gts. of land and plaintiffs through their representative K. Arjun and one Dr.T.K.M.Chatarjee and their henchmen are interfering with the possession of the land of defendant No.3 and his wife by obstructing their employees by carrying out the development work, therefore, the Manager of defendant No.3 lodged a complaint to the Police, Jeedimetla on 20.06.1999 covered by Crime No.271 of 1999 and plaintiffs approached defendant Nos.1 and 2 and made them to obtain revocation deeds of GPA and also rectification deeds unilaterally and got the same published in the newspaper and the documents are illegal and defendant No.3 and his wife issued legal notice dated 04.10.1999 calling upon defendant No.1 to forthwith to initiate remedial action to undo illegal acts and the proceedings under Section 145 Cr.P.C. were initiated by R.D.O., Hyderabad and took over the possession of the suit land on paper. However, defendants are continued in enjoyment of the suit land and the plaintiffs got the said proceedings initiated in order to dispossess defendant No.3 and his wife from the suit land and plaintiffs approached this Court and the proceedings of the RDO were quashed. Defendant No.1 received

legal notice dated 06.10.1999 and replied reiterating that the sale deeds already executed in favour of defendant No.3 and his wife and one Appa Rao are valid. Defendant Nos.1 and 2 colluded with plaintiffs and created false revocation and rectification deeds though they have no right or possession and the plaintiffs are in possession and enjoyment being owners and thereby sought for dismissal of the suit. The Trial Court framed the issues as to whether the plaintiffs are in possession and alleged interference by the defendants is true and plaintiffs are entitled for perpetual injunction and the Court got jurisdiction and ultimately the trial Court decreed the suit in favour of plaintiffs and it is impugning the same, defendant No.3 filed the appeal showing other defendants along with plaintiffs as respondents. During pendency of the appeal, defendant No.5-Sai Baba, who was respondent No.7 in the appeal, died and his daughter K. Naga Sreedevi was came on record as respondent No.8 being legal representative. In the appeal, appellate Court confirmed the trial Court's decree and judgment and dismissed the appeal on 13.06.2014 as referred supra. The private complaint just before one month to the dismissal of the appeal on 16.05.2014, no where mentioned about the proceedings of O.S.No.612 of 1999 and A.S.No.296 of 2006, went against them, which are even material facts required to be disclosed and it is nothing but suppression of the material facts. Apart from it, at para 3 of the complaint, speaks cause of action arisen in 1998 and 1999, but the complaint is filed on 14.05.2014, the trial Court did not apply the mind and there are no reasons even assigned while referring the complaint to police for investigation and referred it in a mechanical manner. Having regard to the above and from the consideration of the material facts, the F.I.R. is liable to be quashed.

5. Accordingly, this criminal petition is allowed and all the proceedings relating to Crime No.440 of 2014 of Jeedimetla Police Station, Cyberabad, are quashed. The bail bonds of the petitioner/A.1, if any, shall stand cancelled.

6. Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

07.11.2015.

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