

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2016

CORAM:

THE HON'BLE Mr.JUSTICE R.SUBBIAH

CrI.O.P.No.30168 of 2015

D.Kanimozhi  
S/o.Late M.E.Durai Raj,  
No.323, Main Road,  
Keelottivakkam Village,  
Walajabad Taluk,  
Kancheepuram District

... Petitioner

Vs.

1. The Superintendent of Police,  
Kancheepuram District,  
Having office at District Police Head Quarters,  
Kancheepuram Town and Taluk.

2. The Inspector of Police  
Walajabad Police Station,  
Kancheepuram District

... Respondents

Prayer :

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to direct the second respondent herein to register the case based on the complaint dated 29.11.2013 and investigate the matter in accordance with law.

For Petitioner : Mr.T.Muruganantham

For Respondents : Mr.C.Emalias  
Additional Public Prosecutor

ORDER

This petition has been filed seeking a direction to the second respondent to register a case on the petitioner's complaint dated 29.11.2013 and investigate the case.

2. The case of the petitioner is that the agricultural land measuring to an extent of 0.59 cents situated in Survey No.269/3 in Keelottivakkam Village, Wallajabad Taluk, Kancheepuram District was owned and possessed by the petitioner's father one M.E.Durairaj and he also effected changes in the revenue records and was in continuous possession

and enjoyment of the same. His father obtained a loan from one Lakshmi Ammal since he did not repay the amount, the said Lakshmi Ammal filed a suit in O.S.No.1052 of 1981 before the District Munsif, Kancheepuram for recovery of the amount. In the said suit, an exparte decree was passed and E.P.No.444 of 1984 was also filed before the District Munsif, Kancheepuram and the same was also allowed. Based on the orders passed in the said E.P, the undivided shares of the petitioner's father property were attached and the same was sold in Court auction. One Selvaraj Mudaliar, S/o.Ekambaram Mudaliar purchased the said property through Court auction and filed O.S.No.354 of 1981 on the file of the Sub Court, Kancheepuram for the partition of the said property. A preliminary decree of partition was ordered in the said suit and final decree was also passed by the learned Subordinate Judge, Kancheepuram by an order dated 13.03.1985. The said Selvaraj Mudaliar had got only 0.74 cents of agricultural land through Court. The petitioner's mother Kanchana and his sister had executed a settlement deed dated 18.02.2008 in favour of the petitioner with regard to the property in Survey No.269/3 to an extent of 59 cents in Keelottivakkam Village, Walajabath Taluk. Pursuant to the settlment deed, the petitioner has taken delivery of the said property and is in continuous possession and enjoyment of the same.

3. While so, the said Selvaraj Mudaliar, who has no right over the said property, had executed a sale deed in favovur of one Duraivel with regard to an extent of 59 cents in Survey No.269/3, Keelottivakkam Village, bearing document No.6088 of 2010 on 23.11.2010 in the office SRO, Walajabath. When the petitioner came to know about the said sale made by Selvaraj Mudaliar, the petitioner gave a complaint to the first respondent police on 29.11.2013, who in turn forwarded the same to the second respondent. But, till date, no action was taken on the said complaint. Hence, the present criminal original petition has been filed.

4. I have heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor.

5. When the matter was taken up for consideration today, the learned Additional Public Prosecutor submitted that the complaint was given in the year 2013 and now almost two years have lapsed. If the petitioner gives a fresh complaint, necessary action will be taken.

6. In view of the submissions made by the learned Additional Public Prosecutor, this Court directs the petitioner to give a fresh complaint along with a copy of this order to the second respondent, within a period of one week from the date of receipt of a copy of this order and on receipt of the same, the

second respondent is directed to conduct enquiry on the same and upon enquiry, if materials are gathered indicating commission of any cognizable offence, is directed to proceed further in accordance with law, as early as possible. If no prima facie case is made out for registering the FIR the second respondent is directed to pass an appropriate order on the said complaint.

7. With the above directions, the Criminal Original Petition is disposed of.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Superintendent of Police,  
Kancheepuram District,  
Having office at District Police Head Quarters,  
Kancheepuram Town and Taluk.
2. The Inspector of Police  
Walajabad Police Station,  
Kancheepuram District
3. The Public Prosecutor  
High Court, Madras.

+1 cc to Mr.T.Muruganatham Advocate sr.1031

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