

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. Nos.22033 & 22473 of 2016 and Crl.M.P. No.10455 of 2016

Great Lakes Multi-State Cooperative

Housing Society Ltd.

represented by its Chief Executive Officer

S. Sakthivel

76/190 South Car Street

Srivilliputhur - 626 125

Virudhunagar District

Petitioner in Crl.O.P. No.22033 of 2016

vs.

1 The Commissioner of Police
Office of the Commissioner of Police
Vepery
Chennai 600 007

2 The Inspector of Police
St. Thomas Mount P.S.
Alandur, Chennai

3 S.P. Velayutham Respondents in Crl.O.P. No.22033 of 2016

S. Sakthivel

Chief Executive Officer

Great Lakes Multi State Cooperative

Housing Society Ltd.

76/190, South Car Street

Srivilliputhur - 626 125

Virudhunagar District

Petitioner in Crl. O.P. No.22473 of
2016

vs.

1 The State represented by
the Inspector of Police
Central Crime Branch - II
ALGSC II Team-D
Vepery, Chennai 600 007

2 S.P. Velayutham

Respondents in Crl. O.P.
No.22473/2016

Prayer in Crl.O.P. No.22033 of 2016:

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to direct the first respondent to give protection to the petitioner society while surveying and constructing the compound in the petitioner's lands in Survey No.16/18 (Ward-H, Block No.20, T.S. No.6/3) to the extent of 50 cents at Alandur Village in Kancheepuram District.

Prayer in Crl.O.P. No.22473 of 2016:

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to call for the entire records pertaining to Crime No.155 of 2014 pending on the file of the first respondent and quash the same.

For petitioner in Mr. R. Shanmugasundaram
both OPs Sr. Counsel
 for M/s. Om Sai Ram

For RR 1 & 2 in Mr. C. Emalias
Crl.O.P. No.22033/2016 Addl. Public Prosecutor

For R3 in Mr. V. Raghavachari
Crl.O.P. No.22033/2016

For R1 in Mr. C. Emalias
Crl.O.P. No.22473/2016 Addl. Public Prosecutor

For R2 in Mr. V. Raghavachari
Crl.O.P. No.22473/2016

COMMON ORDER

While Crl.O.P. No.22033 of 2016 has been filed seeking to direct the first respondent to give protection to the petitioner society while surveying and constructing the compound in the petitioner's lands in Survey No.16/18 (Ward-H, Block No.20, T.S. No.6/3) to the extent of 50 cents at Alandur Village in Kancheepuram District, Crl.O.P. No.22473 of 2016 has been filed seeking to call for the entire records pertaining to Crime No.155 of 2014 pending on the file of the first respondent and quash the same.

2 For the sake of convenience, the parties will be referred to by their name.

3 The factual matrix of the case is as under:

3.1 It is the case of Velayutham that he is the owner of the property measuring 10.76 acres comprised in S.No.16/7 and 16/8 in Alandur Village, he having acquired the same from the original owners, viz., Deenadayalu Reddy and Mr. K. Venkatakrishnan and that he is in physical possession and enjoyment of the said property. It is alleged by him that one Pankajammal had created several records in respect of the property and had filed a vexatious suit in O.S. NO.704 of 2009 before the District Munsif Court, Alandur, setting up one Ravikumar as her lessee and that the said suit was dismissed on 01.04.2010. It is his further allegation that the said Pankajammal has sold his property for a song to Great lakes Multi State Cooperative Housing Society Ltd. by a deed of sale registered in the office of the Joint Registrar - I, Tenkasi. Of course, there are other allegations in the complaint.

3.2 In this background, he filed a petition under Section 156(3), Cr.P.C. before the Judicial Magistrate Court, Alandur and the same was referred to the respondent police, based on which, the respondent police have registered a case in Crime No.155 of 2014 against Pankajammal and 10 others, challenging which, Sakthivel (A10), who is the Secretary of Great Lakes Multi State Cooperative Housing Society Ltd., has filed CrI.O.P. No.22473 of 2016 seeking the aforestated relief in addition to CrI.O.P. No.22033 of 2016 seeking police protection.

4 Heard Mr. R. Shanmugasundaram, learned Senior Counsel appearing for Great Lakes Multi-State Cooperative Housing Society Ltd. represented by Sakthivel, Mr.C.Emalias, learned Additional Public Prosecutor, appearing for the respondent police and Mr.V. Raghavachari, learned counsel for Velayutham.

5 Mr. Shanmugasundaram, learned Senior Counsel, submitted that the property in dispute does not belong to Velayutham and it belongs absolutely to Pankajammal inasmuch as Revenue authorities have also issued patta in her favour. He further submitted that Velayutham is claiming title to the property via a sale deed dated 05.07.2007 registered as Document No.2179 of 2007 on the file of the Sub Registrar's Office, Alandur, which sale deed is assailed in W.P.No.33462 of 2014 that was filed by Asset Reconstruction Company India Ltd., the assignees of Indian Bank, where, the said property appears to have been mortgaged and which writ petition was allowed on 04.01.2016. The learned Senior Counsel further submitted that the property purchased by Great Lakes Multi State Cooperative Housing Society Ltd. is different from the one that is claimed by Velayutham, which is strongly refuted by Mr.V.Raghavachari, learned counsel appearing for Velayutham, who brought to the notice of this Court that the property in question has been referred to in the sale deed bearing document no.2179 of 2007.

6 The learned Additional Public Prosecutor submitted that there are two FIRs pending on the file of the Central Crime Branch with regard to the property in question, viz., Cr. Nos.41 of 2009, 64 of 2010 and 155 of 2014, which is the present FIR under challenge.

7 It may be relevant to state here that Velayutham who is the de facto complainant in Cr. No.155 of 2014 is an accused in Cr. No.41 of 2009.

8 The learned Senior Counsel submitted that even after the registration of FIR, no progress has been made by the Inspector of Police, Central Crime Branch, because, police were convinced that Velayutham has no title to the property.

9 Be that as it may, on a reading of the FIR in Cr. No.155 of 2014, there are prima facie materials for a full fledged investigation to go on and the same cannot be stifled at the threshold in the light of the law laid down by the Supreme Court in State of Haryana & Others vs. Bhajan Lal and others [1992 Supp. (1) SCC 335].

10 However, this Court is of the considered view that it will be in the interest of justice, if the investigation in all the three crime nos. are transferred to an officer of the rank of Assistant Commissioner of Police in the Central Crime Branch for a thorough investigation, in the light of the nature of dispute between the parties.

11 In such view of the matter, this Court directs the Deputy Commissioner of Police, Central Crime Branch, to appoint a competent officer of the rank of Assistant Commissioner of Police in the Central Crime Branch, who shall be the investigating officer for investigating all the three cases, viz., Cr. Nos.41 of 2009, 64 of 2010 and 155 of 2014.

12 The Inspectors of Police who are investigating the aforesaid three cases, are directed to hand over the case diaries to the Assistant Commissioner of Police appointed by the Deputy Commissioner of Police, as directed by this Court and the Assistant Commissioner of Police shall expeditiously conduct investigation in all the three cases and take action in accordance with law.

13 As regards the prayer in CrI.O.P. No.22033 of 2016 seeking police protection, this Court cannot grant this relief, at this stage, in the light of the law laid down by the Supreme Court in State of Punjab vs. Davinder Pal Singh Bhullar and others [(2011) 14 SCC 770].

In the result, CrI.O.P. No.22033 of 2016 filed seeking police protection is dismissed and CrI.O.P. No.22473 of 2016 stands ordered with the above directions. Connected CrI.M.P. is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

cad
To

- 1 The Commissioner of Police
Office of the Commissioner of Police
Vepery
Chennai 600 007
- 2 The Inspector of Police
St. Thomas Mount P.S.
Alandur, Chennai
- 3 The Inspector of Police
Central Crime Branch - II
ALGSC II Team-D
Vepery, Chennai 600 007
- 4 The Public Prosecutor
High Court of Madras
Chennai - 600 104

5. Deputy Commissioner of Police
(Central Crime Branch)
Vepery, Chennai-7

+2 ccs to M/s.S.T.Raja Advocate sr61832,61833
+1 cc to M/s.V.Raghavachari Advocate sr 61850

CrI.O.P. Nos.22033 & 22473 of 2016

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