

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Crl.O.P.No.3607 of 2016

M.Gunasekaran

.. Petitioner

Vs.

State rep. by:

1. The Director,

Directorate of Vigilance and Anti-Corruption (DVAC),
No.28, P.S.Kumarasamy Raja Salai,
Raja Annamalaipuram,
Chennai-600 028.

2. The Deputy Superintendent of Vigilance,

Vigilance and Anti-Corruption,
No.1/7-1, Thiruchengodu Road,
Nallipalayam Post,

Namakkal District-637 003.

.. Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure (Cr.P.C) to direct the second respondent to conduct investigation and register the petitioner's complaint, dated 22.12.2015 in Crime Number not known of 2015 on the file of the respondents 1 and 2/Police and to file the final report before the competent Court.

For petitioner : Mr.M.K.Bhoopathy

For respondents: Mr.P.Govindarajan, Addl.P.P.

ORDER

This Crl.O.P. is filed to direct the second respondent to conduct investigation and register the petitioner's complaint, dated 22.12.2015 in Crime Number not known of 2015 on the file of the respondents 1 and 2/Police and to file the final report before the competent Court.

2. It is the case of the petitioner that he is residing along with his family members since his birth and is a farmer by profession. The petitioner's grandfather Mr.Kesava Sankara Muniappa Mudaliar was having 3.8.7.0 hectares of agricultural land in Kabilakurichi in Survey No.267/1 at Namakkal District.

The petitioner's grandfather died intestate, leaving behind K.Rathnavel, K.Ramasamy, K.Maruthamuthu and K.Kokila, with the above property. It is further stated that the patta stands in the name of his grandfather. In the said property, the petitioner purchased 3.18 acres of agricultural property from the said K.Ramasamy at Kabilakurichi in S.No.267/1 by way of sale deed, dated 13.06.2008 in Document No.1553/2008 on the file of the Sub-Registrar, Paramathi Velur, Namakkal District. From the above mentioned S.No.267/1, the petitioner's father settled 2/3 share out of his 3.16 acres of agricultural land in favour of the petitioner, by way of settlement deed, dated 16.11.2011 in Document No.4668/2011 on the file of the Sub-Registrar, Paramathi Velur, Namakkal District and his father's name stands in UDR patta. It is the further case of the petitioner that he is in exclusive possession and enjoyment of the petitioner till date and therefore, he is the absolute owner of the said property.

3. In the CrI.O.P., it is further averred by the petitioner that in Paramathi Velur Taluk Office, one Mr.Mookan, who is working as Taluk Circle Inspector, demanded Rs.50,000/- to grant patta, which was refused by the petitioner, resulting in rejection of the patta application by the Tahsildar on 17.12.2015 on the ground that a partition suit is pending before the District Munsif Court, Paramathi Velur, Namakkal, in O.S.No.51 of 2012 filed by one Mrs.Kalavathy and Banumathy in respect of the above said property. Therefore, on 22.12.2015, the petitioner lodged a complaint with necessary documents before the respondents. However, it is the case of the petitioner that on 06.01.2016, the first respondent forwarded the petition to the District Collector, Namakkal, for necessary action, a copy of which was also sent to the petitioner. Since the complaint was not registered so far, inspite of the fact that, according to the petitioner, the complaint discloses cognizable offence, the petitioner has filed this CrI.O.P. for the relief stated supra.

4. The respondents have filed counter affidavit stating that the petition, dated 22.12.2015 of the petitioner was received by the Directorate of Vigilance and Anti-Corruption, Chennai-600 028 on 29.12.2015, which was forwarded to the District Collector, vide Ref.No.11278/2015/REV/NK, dated 06.01.2016 as per the instructions in DVAC Manual for necessary action, since the petition related to a pending civil dispute and does not disclose information of cognizable offence under the Prevention of Corruption Act. It is further stated in the counter that an action taken report (ATR) was obtained from the Assistant Director, District Land Survey Department, Namakkal in C.No.A2/247/16, dated 25.02.2016, in which, it is stated that the Zonal Inspector of Land Survey, Tiruchengode has conducted enquiry in respect of the allegations levelled by the petitioner against the officials concerned, which revealed that sub-

division of the petitioner's property in Kabilakurichi Village Survey No.267/1, Namakkal District, could not be effected for issuance of individual patta, since a partition suit in O.S.No.51 of 2012 is pending before District Munsif Court, Paramathi Velur, Namakkal District. Hence, the application of the petitioner was rejected by the officials of Paramathi Velur Taluk, which resulted in filing a false complaint by the petitioner against the Taluk Inspector and others. The respondents therefore prayed for dismissal of CrI.O.P.

5. Heard both sides and perused the materials available on record.

6. Considering the facts and circumstances of the case and also taking into account the stand of the respondents in the counter that the petitioner's complaint/petition was rejected due to pendency of the civil dispute before Civil Court, as stated above, which pendency was also admitted by the petitioner, I do not find any valid ground to entertain this CrI.O.P. Moreover, the respondents have also obtained ATR and only thereafter, the complaint was closed. Hence, the direction sought for by the petitioner in this CrI.O.P. is not sustainable. Accordingly, this CrI.O.P. is dismissed.

cs

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

Copy to

1. The Director,
Directorate of Vigilance and Anti-Corruption (DVAC),
No.28, P.S.Kumarasamy Raja Salai,
Raja Annamalaipuram, Chennai-600 028.
2. The Deputy Superintendent of Vigilance,
Vigilance and Anti-Corruption,
No.1/7-1, Thiruchengodu Road,
Nallipalayam Post, Namakkal District-637 003.
3. The Public Prosecutor, High Court, Madras.

+ 1 cc to Public Prosecutor, High Court, Madras SR 29375

svi(co)
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