

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.6612 of 2016

and

WMP.Nos.5877 to 5879 of 2016

A.V.Kamalakannan

... Petitioner

vs.

1. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.
2. The Sub Registrar,
SRO office, Padappai,
Sriperumpudur Taluk,
Kancheepuram District.
3. The Inspector of Police,
B-2, Vishnu Kanchi Police Station,
Kancheepuram Taluk,
Kancheepuram.
4. S.Sathish Kumar
5. S.Santhosh Kumar

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus to call for the records of the third respondent bearing Letter dated 11.01.2016 addressed to the second respondent and quash the same and forbearing the first and third respondents from harassing and foisting false cases by referring the Crime No.1362 of 2015 and the property comprised in Survey No.495/2A.

For Petitioner : Mr.AR.L.Sundaresan, SC
for Mr.L.Dhamodaran

For R1 to R3 : Mrs.P.Rajalakshmi, GA

For R4 & R5 : Mr.B.Jawahar

ORDER

The petitioner has come up with the present writ petition for a mandamus, challenging the communication dated 11.01.2016 sent by the third respondent to the second respondent and consequently forbearing the respondents 1 and 3 from harassing and foisting false case by referring Crime No.1362 of 2015 in respect of the property in S.No.495/2A.

2. It is the case of the petitioner that he is the owner of a punja land admeasuring to an extent of 17 1/2 cents or 7630 sq.ft comprised in S.No.495/2A1A, patta No.462, Punja Survey No.494/4, Natham Patta No.468, as per patta Survey No.495/2A1 in Padappai Village, Padappai Panchayat Limit, Sriperumpudur Taluk, by the registered sale deed bearing Document No.1431 dated 13.01.2016 executed by respondents 4 and 5 in favour of him. Originally, the above said property was owned and possessed by one D.Anumanthan, who thereafter, sold the same to respondents 4 and 5 under the registered sale deed dated 12.12.2011 bearing Document No.8173 of 2011. After purchasing the property, the petitioner has been in possession and enjoyment of the same. While so, the third respondent sent a letter dated 11.01.2016 to the second respondent requesting him not to accept the sale deed for registration in respect of the property in S.No.495/2A by stating that a case in Crime No.1362 of 2015 is pending investigation. Pursuant to the said letter, the third respondent refused to accept the document presented by the petitioner for registration. Therefore, the petitioner has filed the present petition for the above stated relief.

3. Learned senior counsel for the petitioner submitted that the criminal case in Cr.No.1362/2015 referred to in the impugned letter sent by the third respondent to the second respondent, has no relevancy to the property in S.No.495/2A purchased by the petitioner and the third respondent without properly conducting any enquiry, issued the impugned letter to the second respondent, due to which, the petitioner is unable to deal with the property in question.

4. Learned Government Advocate appearing for respondents 1 to 3 filed a counter affidavit, wherein, it has been stated by the third respondent that an enquiry was conducted in Cr.No.1362/2015 and it was found that there exists a dispute in respect of the subject property and hence, he sent notice to the second respondent stating that if any registration is made by respondents 4 and 5 in respect of the property, intimation may be given to him. It is further stated therein that the said notice was sent on 11.01.2016 and the property was sold by respondents 4 and 5 in favour of the petitioner on 13.01.2016 and the same was registered as Document No.1431 of 2016 on the file of Joint IV, Sub Registrar office,

Kancheepuram. Therefore, the letter sent by the third respondent has no effect. It is also categorically averred in para 7 of the counter affidavit that since the property was already sold on 13.01.2016 in favour of the petitioner, the third respondent has no objection in registering the document in relation to the property mentioned by the petitioner measuring to an extent of 7630 sq.ft. comprised in S.No.495/2A, situated at Padappai Village, Sriperumpudur Taluk.

5. Learned counsel for respondents 4 and 5 also filed a counter affidavit, wherein, it has been stated that the property owned and sold by them to the petitioner was not involved in any criminal proceedings and Crime No.1362 of 2015 referred to in the communication sent by the third respondent to the second respondent has no relevance to the immovable property sold to the petitioner. It is further stated therein that they have not filed any complaint against the petitioner with regard to the execution of the sale deed dated 13.01.2016 registered as Document No.1431 of 2016 to respondents 1 and 3. Therefore, the communication sent by the third respondent to the second respondent is not proper.

6. I have considered the submissions made by all the parties and perused the materials placed before this Court.

7. Admittedly, the third respondent sent the letter dated 11.01.2016 to the second respondent, instructing him not to register the sale deed executed by respondents 4 and 5 in respect of the property in S.No.495/2A by referring the criminal case in Crime No.1362/2015. Aggrieved over the same, the petitioner is before this Court. However, the third respondent has, in para 7 of his counter affidavit, categorically stated that he has no objection in registering the document with regard to the property purchased by the petitioner, to an extent of 7630 sq.ft. in S.No.495/2A situated at Padappai Village, Sriperumpudur Taluk. Further, the respondents 4 and 5 while supporting the case of the petitioner, have stated in their counter affidavit that they have not given any complaint against the petitioner with regard to the execution of the sale deed dated 13.01.2016 to the respondents 1 and 3.

8. In view of the above, this Court is of the view that there cannot be any impediment for the petitioner to get the sale deed registered. Therefore, the impugned letter dated 11.01.2016 sent by the third respondent to the second respondent is liable to be quashed and accordingly, the impugned letter dated 11.01.2016 is quashed.

9. The writ petition is accordingly ordered. No costs.
Consequently, connected Miscellaneous Petitions are closed.
rk

-s/d-

Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To

- 1.The Superintendent of Police,
Kancheepuram District,
Kancheepuram.
- 2.The Sub Registrar,
SRO office, Padappai,
Sriperumpudur Taluk,
Kancheepuram District.
- 3.The Inspector of Police,
B-2, Vishnu Kanchi Police Station,
Kancheepuram Taluk,
Kancheepuram.

+ 1 cc to Mr.L.Dhamodaran, Advocate, SR 18823

+ 1 cc to Govt.Pleader, High Court, Madras SR 19014

ca(co)
prk31/3

W.P.No.6612 of 2016

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