

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Cr1.R.C.No.592 of 2014

Mr.Ponram

... Petitioner

Vs

1.The Superintendent of Police,
District Crime Wing,
Villupuram.

...1st Respondent/Complainant

2.Mrs.Raniammal
W/o Krishna Gounder

...2nd Respondent/Accused

Prayer:- Criminal Revision case filed under Section 397 read with 401 of Criminal Procedure Code praying to set aside the judgement of the Judicial Magistrate No.II, Tindivanam, dated 24.01.2014 passed in C.M.P.No.3878 of 2012 and direct the Lower Court to take the complaint on file and proceed with the same.

For Appellant : Mr. M.Ammavasai

For Respondent-1 : Mr.R.Ravichandran,
Govt. Advocate

(Cr1.side)

For Respondent-2 : Mr.D.Kumaralingam

ORDER

Challenging the order of dismissal of the protest petition in CMP.No.3878/2012 on the file of the learned Judicial Magistrate No.II, Tindivanam dated 24.01.2014, the petitioner has preferred the present revision.

2. The petitioner has filed a criminal complaint against the second respondent in Crime No.116 of 2011 on the file of the District Crime Branch, Villupuram, for offences

under Sections 420, 465, 467, 468, 471 of IPC. The above criminal complaint has been filed on the ground that the petitioner purchased an extent of 7.02 acres of land in Survey No.255 in Marakkanam Village from the legal heirs of one Marimuthu Gounder. Subsequent to the purchase, while measuring the property, it was found that only an extent of 5.70 acres of land alone is available as per the Revenue record and an extent of 1.31 acres has been settled by the second respondent herein, in favour of his son one Venkatesan, thereby he has cheated the petitioner and committed the offence.

3. The first respondent, after registering the complaint, conducted investigation and filed a negative final report stating that the total extent of 7.02 acres purchased by the petitioner includes an extent of 1.31 acres belonging to the second respondent and the second respondent is also one of the legal heirs of the petitioner's vendor Marimuthu Gounder, and thereby the second respondent is also the owner of the property to the extent of 1.31 acres. Subsequently, the second respondent filed a suit in O.S.No.49 of 2012 on the file of District Munisif, Tindivanam, against the petitioner herein and some other legal heirs seeking permanent injunction on ground that the second respondent is the owner of the property to an extent of 1.31 acres in the disputed property by means of a Will executed by the father of Marimuthu Gounder and the suit is still pending. After filing the final report the petitioner has filed the present petition. The Trial Court considering the materials available on record dismissed the protest petition. Challenging the same the present revision has been filed.

4. I have heard the learned counsel for the petitioner and the counsel for the respondents and perused the materials available on record.

5. The respondent Police after registering the complaint conducted investigation and came to the conclusion that it is only a Civil dispute. Since the second respondent is also one of the legal heirs of Marimuthu Gounder, she was claiming right over the property by means of a Will said to have been executed by the father of Marimuthu Gounder. She had also filed a suit and the same is pending. Subsequently, the petitioner also sold the property measuring to an extent of 5.71 acres of land to some other third parties. Since the second respondent also claims a right over the property by means of a Will and the suit is also pending, the first respondent police after thorough investigation, filed final report stopping all further proceedings in the Criminal case. The trial court also considered the case and analysed all the materials on record and came to a conclusion that it is a Civil dispute. In the

above circumstances, I find no irregularity or illegality in the order passed by the Court below in dismissing the petition filed by the petitioner.

6. In the result this Criminal Revision Case is dismissed. However it is left open to the parties to work out their rights before the Civil forum in an appropriate manner.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrarsmi/sji

To

- 1.The Superintendent of Police,
District Crime Wing, Villupuram.
- 2.Judicial Magistrate No.II,
Tindivanam.
- 3.The Public Prosecutor,
High Court,
Madras.

+1cc to Mr.Ammavasai, Advocate, S.R.No.17534

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SK(CO)
RS(19/04/2017)

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