

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

RESERVED ON : 28.07.2017

PRONOUNCED ON : 13.11.2017

CRL.RC. No.1064 of 2013

and

M.P.No.1 of 2013

Mrs.Komalavalli ... Petitioner

..Vs..

1.Tahsildar and Executive Magistrate,
Mambalam-Guindy Taluk,
Chennai - 600 078.

2.Mrs.Chandra Ammal,

3.Inspector of Police,

J-7, Police Station,

Velachery, Chennai - 600 042.

.. Respondents

Prayer:- Criminal Revision Petition filed under Section 397 and 401 Cr.P.C., to call for the records relating to the order dated 10.04.2013 passed in case No.A1/31021/11 on the file of Tahsildar and Executive Magistrate, Mambalam-Guindy Taluk, Chennai and to set aside the same.

For Petitioner :Mr.A.M.Elango

For R1 &R3

:Mr.B.Ramesh Babu,

Govt.Advocate (Crl.side)

For R2

:Mr.S.Veeraraghavan

ORDER

This Criminal Revision Petition is filed under Section 397 read with Section 401 of Cr.P.C, to call for the records relating to the order dated 10.04.2013 passed in case No.A1/31021/11 on the file of Tahsildar and Executive Magistrate, Mambalam-Guindy Taluk, Chennai and to set aside the same.

2. Challenging the correctness of the order passed by the first respondent-cum-Executive Magistrate under Section 145 of Criminal Procedure Code, the 'B' party has preferred this revision.

3. By the impugned order, the Executive Magistrate has passed an order to register the case against the revision petitioner herein and hence, he has preferred this Criminal Revision against the said order.

4. According to the learned counsel for the revision petitioner has submitted that the revision petitioner is the absolute owner of hte property in Survey No.339/1B part, situated at 6th Main Road, Ram Nagar, No.13, Velachery Village, Mambalam-Guindy Taluk, Chennai District having obtained the settlement deed from her husband Chinnappan and hence, a finding has been given in the impugned order as if the 'A' party is the owner of the land in dispute and hence, sought to set aside the impugned order. It is further submitted that procedure contemplated under Sections 145 of Cr.P.C has not been complied with.

5. Per contra, the counsel for the contesting respondents 2 and 3 has submitted that a finding has been given by the Tahsildar-Executive Magistrate with regard to based upon the title deeds of the vendor and also Government notification issued thereon and therefore, a finding given by the R.D.O is not a declaration as claimed by the revision petitioner and the revision petitioner under the guise of the forged document wanted to disturb the possession of the respondent herein and hence, seek the dismissal of the case.

6.The learned Public Prosecutor appearing for the first respondent Tahsildar-cum-Executive Magistrate has submitted that in view of the two F.I.R filed, one by the 'A' party against the 'B' party and another by the 'B' party against 'A' party, the matter was referred to the first respondent-Executive Magistrate to hold an enquiry under Section 145 of Criminal Procedure Code and after collecting the entire document, a detailed order has been passed to the extent that land in S.No.331 and 339/1A and 339/1B of Velacherry village in Mambalam-Guindy Taluk, Ponneri belonged to the parties and after perusing the entire document produced by both the parties as well as the revenue records and notification issued under the Tamil Nadu Urban Land and Ceiling Regulation Act.

7. Heard both sides and perused the records.

8. It appears that land in Survey No.339/1 was originally belonged to one A.S.L.Raja Nadar and Rajapandia Nadar from whom another one Mr.M.T.Srinivasa Raghavan has purchased the 94 cents of land under the Document No.954/1964 and on coming into force of land ceiling Act under the Tamil Nadu Urban Land (Ceiling

Regulation) Act proceeding has been initiated against the A.S.L.Raja Nadar in the year 1976 wherein 2304 sq.meters have been declared has examined of land and remaining 4500 sq.ft has been held to be within the ceiling limit of the said M.T.Srinivasa Raghavan.

9. It appears that the land in Survey number was sub-divided into 379/A&B in which the excess land under the ceiling proceedings measuring 2304 sq.meter was sub-divided the Survey No.339/1A. While, balance of 1500 sq.meter has been assigned under S.No.339/1B. Subsequently, the land which was declared as surplus with re-survey No.339/1A was taken over by the Government while in respect of retaining portion allowed urban land ceiling proceedings in favour of land owner Mr.M.T.Srinivasa Raghavan has sold the property by a sale deed dated 27.09.1995 and another portion was sold by a sale deed dated 29.02.2000 and after changing hands finally the property has been purchased in favour of the 'A' party before the first respondent-Executive Magistrate.

10. It is seen that in view of the revenue proceedings initiated under the Tamil Nadu Urban (Ceiling and Regulation) Act and allowed the portion within holding of the original land owner, after various sales, which has been squarely fall upon the 'A' party namely the respondents 2 and 3 herein.

11. Further, it appears that in respect of land retained by the 'A' party and 6.45 cents has been acquired by the Highways Department and under Land Acquisition Act and necessary compensation has been deposited before the competent Court also corroborates the stand of the 'A' party that in respect of lands in S.No.329/1B they are the exclusive owner of the property and accordingly, the first respondent-Executive Magistrate have gave a categorical finding that after sub-vendor of the S.No.33/1A and 339/1B in the year 1979. the predecessor-in-title of the 'A'party have been given the land in S.No.339/1B and thereafter, it is in their favour, it remains to be stated that after initiation of the urban land proceedings as stated supra, the land otherwise taken by the Government as excess land under the Urban land proceedings have been given a new Survey number viz., S.No.339/1A as early as in the year 1979. Now, it appears that the 'B'party Komalavalli who claims title to the property in respect of S.No.33/1A, (the documents produced by the revision petitioner 'B' party) only relates to S.No.379/1A which according to the Public Prosecutor by a G.O.Ms.No.1466 dated 26.08.1982 land measuring 669sq.mt has been allotted to Social Welfare Department. While, land measuring 1631 sq.mt has been given to Tamil Nadu Civil Supplies Corporation Limited and accordingly, the Assistant Commissioner(ULC) has also been duly informed about the allotment of land taken by the urban land

ceiling authorities namely by communication dated 30.10.2012.

12. The learned counsel for the petitioner drawn the attention of this Court to the decree obtained by the Komalavalli, (the 'B'party) in O.S.No.7571/12 in the IInd Assistant Civil Court, dated 30.11.2012. As rightly pointed out by the learned counsel for the respondent that the suit property i.e described therein is only to the relates that the S.No.is 339/1A and not S.No.339/1B also lend support and duly corroborates the evidence of the stand taken by 'A'party and finding given by the Executive Magistrate that it is a land that has been declared as surplus by the Government and subsequently, allotted to the department of Social Welfare and also by the Tamil Nadu Civil Supplies Corporation in the above said two G.Os.

13. The source of title in respect of the 'B'party, (the revision petitioner) is the alleged possession certificate issued by the then Tahsildar in the year 1997. Based upon the copy of a possession certificate, it appears that the said Chinnappan have executed the settlement deed in favour of his wife on 27.07.2010 and subsequently, another settlement deed dated 22.03.2011 in respect of S.No.339/1 only and not in respect of land 'B' party and thus, based upon the document produced by the 'B'party, the first respondent-Executive Magistrate have gave a categorical finding that the land to which 'B'party claims be in possession is that of the Government land and it has been taken after following the necessary procedure under the Tamil Nadu Urban Land (Ceiling and Regulation) Act and in the year as early as on 1979. After existing proceedings, S.No.has been sub-divided as 339/1A and 339/1B. While, the surplus land acquired by the Government false under S.No.339/1A and the land otherwise allowed to the return portion of the original land owner being 339/1B from whom, the 'A'party has derived a title is perfect in law cannot be interfered with.

14. Furthermore, when the land has already been taken over by the Government and by G.O.dated 26.08.1982, the land has been assigned to the Department of Social Welfare and Tamil Nadu Civil Supplies Corporation respectively the claim of the 'B'party has no legs to stand and under the guise of the self-generated document of settlement alleged to have been executed by Chinnappan who has no ground to hold has causing a trouble in disturbing the rightful owner namely the 'A'party and a similar finding arrived at by the first respondent-Executive Magistrate is well considered and well merited and after following the necessary procedure, he has passed an order the same does not warrant any interference as the same does not suffer from any illegality of irregularity and the 'B'party on its own accord

has generated a document found to be self-generated document to project him as if a owner of the land is stand exposed in view of the revenue enquiry and the revenue proceedings and accordingly, this Criminal Revision Petition is devoid of merits and liable to be dismissed.

15. In the result, the order passed by the first respondent-Executive Magistrate is valid in law and this Criminal Revision Petition is dismissed. The Inspector of Police, Velacherry is hereby directed to take the complaint given by the 'A'party namely Selvarajan and Chandira Ammal against the 'B' party herein and to complete the investigation and to file necessary final report before the concerned Magistrate Court within a period of 12 weeks from the date of receipt of a copy of this order.

16. From the documents that has been produced before the first respondent as well as before this Court is of the considered view that the action of the 'B'party namely the revision petitioner appears to be a land grabbing in based upon the self-generated document and hence, the Inspector of Police, J7,Velachery is directed to take note of the fact and also investigate at this point since as there are sufficient material is available on record to take the cognizance offence in respect of the complaint given by the 'A'party against the 'B'party herein and accordingly, the Inspector, J7,Velachery Police station is directed to take complaint given by the second respondent and register the F.I.R against the petitioner Komalavalli for the alleged offence stated in this petition along with offence for land grabbing and to complete the investigation and file a final report within the stipulated time.

17. With these observations, this Criminal Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar (CS-ix)

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Sub Assistant Registrar

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To

1.The Tahsildar and Executive Magistrate,
Mambalam-Guindy Taluk, Chennai

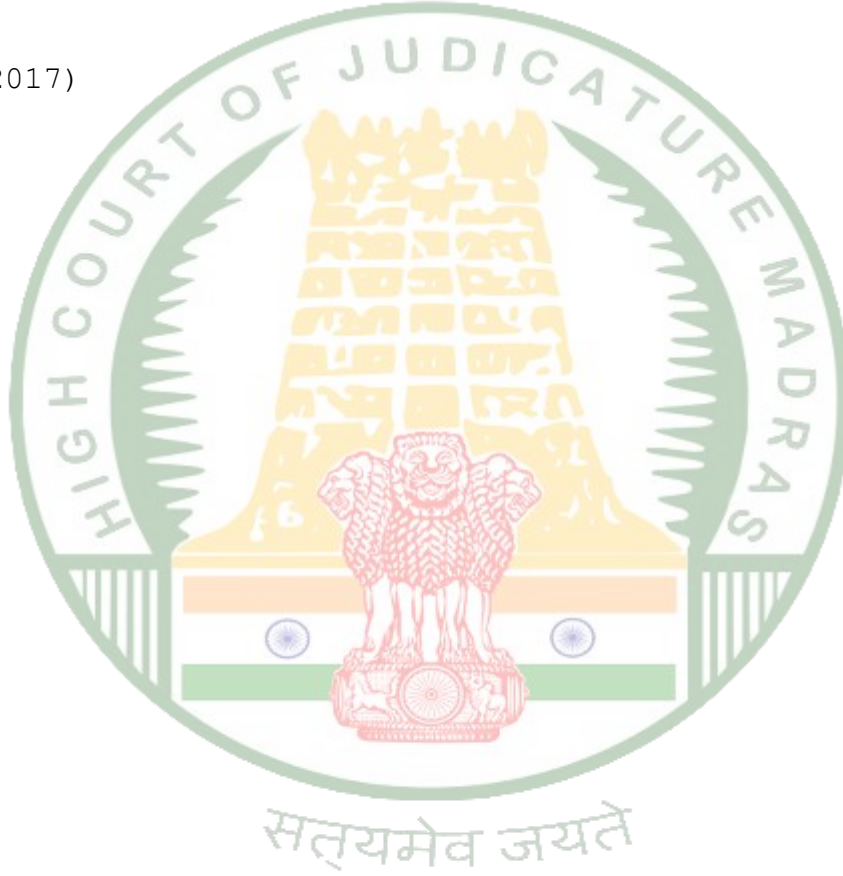
2.The Public Prosecutor,
High Court, Madras.

3. The Inspector of police J-7
Police Station, velachery, chennai

+lcc to Mr.veeraraghavan, Advocate, S.R.No. 80189

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RSI (CO)
TR(08/12/2017)



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