

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2017

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THE HONOURABLE Mr. JUSTICE C.T. SELVAM

Crl.O.P.No. 25474 of 2013

Mr. A. K. Nageswara Rao

...Petitioner

Versus

1. State, represented by the
Inspector of Police, District Crime Branch,
Anti Land Grabbing Cell, Kancheepuram,
Kancheepuram District.

2. R.K. Tatachariar

....Respondents

Criminal Original Petition filed under section 482 of Criminal Procedure Code praying for a direction to call for the records in FIR registered in Crime No.67/13 on the file of the first respondent and to quash the same as against the petitioner and render justice.

For Petitioner :

Mr. V. Gopinath,
Senior Counsel for
Mr.S.Pugaleanthi

For R1 :

Mr. M.Mohammed Riyaz
Government Advocate (Crl.Side)

For R2 :

No Appearance

ORDER

Petitioner seeks to quash case registered, in Crime No.67 of 2013 on the file of first respondent.

2. It is de facto complainant's case that property, measuring 3.30 cents originally belonged to one R. Krishnaswamy Tatachariar, and under Will of his son Kumara Tatachari, became entitled to the said property. De facto complainant, being legal heir of said R.N. Tatachari, became entitled to the entire extent of 3.30 cents.

3. It is the case of accused 2 and 3 that, on the death of the original owner, R. Krishnaswamy Tatachariar, the property was orally partitioned between three legal heirs, and each of them became entitled to 1 acre 10 cents. Accused Nos. 2 and 3 claim right to the extent of 1 acre and 10 cents through one of such legal heirs.

4. Learned Senior Counsel for petitioner submitted that, a suit for partition is pending in O.S.No.142 of 1994, on the file of the Subordinate Judge, Kancheepuram. De facto complainant is first defendant in the suit, and accused 2 and 3 were plaintiffs 10 and 11 therein. Petitioner was an innocent purchaser of undivided share, under them. As a matter of fact, plaintiffs 3 and 4 in the said suit had effected sale of further extent of 55 cents to petitioner, but no case has been registered there regards. Learned Senior Counsel further submitted that, when accused 2 and 3 had executed sale deeds in favour of petitioner, in respect of undivided share of 0.55 cents, claiming ownership thereto, no offence under Sections 467, 468 and 471 IPC would be attracted. Learned Senior Counsel further submitted that the petitioner duly would abide by the outcome of the said partition suit. It is only when his vendors are held entitled to the share claimed by them, that he would derive an interest.

5. Heard learned Government Advocate (Crl.Side) for the first respondent, on the above submissions.

6. Considering the facts and circumstances of the case, this Court is of the view that petitioner/A1 can be looked upon as no more than an innocent purchaser. Recording the submission of learned Senior Counsel for petitioner that petitioner would abide by the outcome of the partition suit, mentioned above, this Criminal Original Petition stands allowed. The case in Crime No.67 of 2013 on the file of the first respondent is quashed.

24.04.2017

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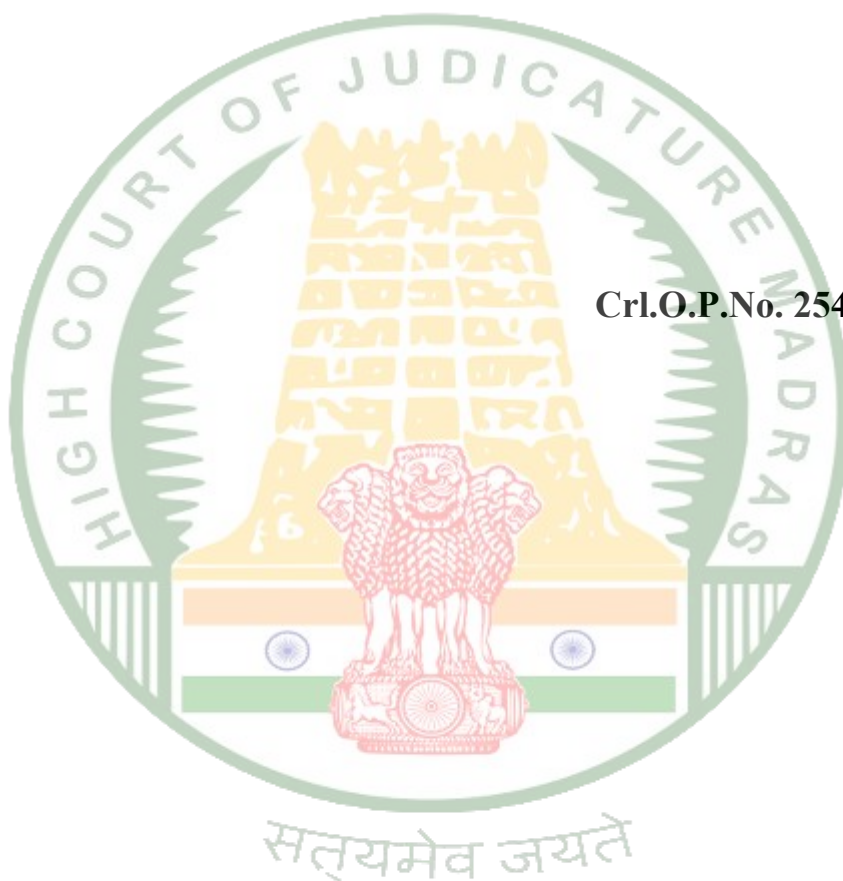
Index : Yes/No

To

1. Inspector of Police, District Crime Branch,
Anti Land Grabbing Cell, Kancheepuram,
Kancheepuram District.
2. The Public Prosecutor
High Court, Madras.

C.T. SELVAM, J.,

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