

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 07.03.2018

Pronounced on : 02.04.2018

C O R A M

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

Crl.R.C.No.4 of 2018

N.Narayana Reddy .. Petitioner

Vs.

C.Suresh Babu .. Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C., against the order passed in Cr.M.P.No.888 of 2017 dated 13.10.2017 on the file of the learned District Munsif-cum-Judicial Magistrate Court at Denkanikottai.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mr.N.E.D.Dinesh

O R D E R

The petitioner has filed this Criminal Revision Petition to set aside the order passed in Cr.M.P.No.888 of 2017 dated 13.10.2017 on the file of the District Munsif-cum-Judicial Magistrate Court at Denkanikottai.

2.The case of the petitioner is that his father had right and title over the 1/5<sup>th</sup> share in the properties comprised in S.Nos.177, 179 and 193 at Thandarai Village, Hosur Taluk. After the demise of the petitioner's father the above said properties devolved upon his three sons and two daughters, including the petitioner herein. Accordingly the petitioner and the above four persons have 1/5<sup>th</sup> share over the undivided 1/5<sup>th</sup> share in S.Nos. 177, 179 and 193.

3.While so, the respondent herein alleging that he had purchased the above property from one of the legal heirs had obtained a Patta in his name by playing fraud. Thereupon an application was made by the petitioner to cancel the Patta

issued in the name of the respondent before the DRO, Krishnagiri who has ordered for removal of the respondent's name from the Patta to the said property.

4. Whereas notwithstanding earlier order of the cancellation of Patta, the Tahsildar, Denkanikottai passed yet another order in favour of the respondent by issuing Patta in his name to the said property. In the interregnum period petitioner filed a Writ petition in W.P.No. 40538/2016 before this Hon'ble Court challenging the order of the DRO and there is an order of Injunction in connection with mutation of revenue records.

5. Earlier the petitioner in this regard has also made a criminal complaint before the concerned Police and the same came to be registered in Crime.No.393 of 2014 for the offence under Section 465 of IPC on the file of the Inspector of police, Denkanikottai.

6. Facts being as such, the respondent along with his henchmen continuously threatened the petitioner with an ulterior motive to grab his lands and dispossess him and attempts to illegally trespass into the subject property. The respondent further leaving life threat intimidated the petitioner that he would lodge false complaints in this regard. When a complaint was lodged for the alleged offence the police failed to take action over the same. Therefore the petitioner filed a private complaint in CrI.M.P.No.888 of 2017 on the file of the Learned District Munsif cum Judicial Magistrate Denkanikottai for the above alleged offences. However the Learned Judge on misconception of law and fact chose to dismiss the petitioner's complaint vide an order dated 13.10.2017 holding that the complaint is liable to be dismissed for want of particulars as there was no time or date or commission act is disclosed in the complaint. Aggrieved over the same the petitioner has filed this instant petition seeking to set aside the order of dismissal and thereby to restore his private complaint dated 16.03.2017.

7. I heard Mr.R.Jayaprakash, learned counsel for the petitioner and Mr.N.E.D.Dinesh, learned counsel for the respondent and perused the entire records.

8. The Record reveals that it is the specific case of the petitioner that the respondent along with his henchmen continuously threatened the petitioner with an ulterior motive to grab his lands and dispossess him and attempts to illegally trespass into the subject property. The respondent further leaving life threat intimidated the petitioner that he would lodge false complaints in this regard. The relevant portion of the complaint is extracted hereunder:

"7. When this being the case, the accused along with his henchmen is continuously threatening the complainant with an ulterior motive to grab his lands and dispossess him from the land and in order to illegally trespass into his land. The accused is further threatening the complainant stating that he will kill the complainant and also that he will lodge false complaints against the complainant. Hence the complainant has filed a complaint before the inspector of police to take appropriate and immediate action against the accused and his henchmen from interfering in the peaceful possession of lands of the complainant and also to kindly provide protection for the life and limb of the complainant's life."

9. A plain reading of the above complaint would show that there is no time or date or place of occurrence or even the nature of the alleged offence committed by the respondent was not all mentioned. It is barely stated that the respondent is attempting to trespass into the petitioner's property and he is facing threat of dispossession. It is unveiled that a case with regard to alleged forgery is already registered against the respondent and the same is about to be charge sheeted by the Inspector of Police, Denkanikottai.

10. More so, it appears that the complaint seeks for an action in the nature of injunction restraining the respondent from interfering with possession or in any way dealing with the property. In such circumstance it is needless to say for this Court that the averment made and the cause of action as well and the action sought is of partially civil in nature. On the other hand though some criminal colour as to life threat and trespass is given in the complaint, there is nothing on record or in complaint, mentioning at the least any one of such alleged incidents.

11. It is equally important to state that on perusal of the statement of oath ascribed by the petitioner, this Court is unable to trace any of such details. Admittedly there is no time or date or any act disclosed in the complaint, in such case the proceeding with the complaint would be an abuse of process of law, besides would result in wastage of precious Court Hours. Only on proper appraisal of the above fact, the Learned Judge has chosen to dismiss the complaint for want of material particulars.

12. In the said factual back ground, I do not find any infirmity or irregularity in the impugned order, warranting interference by this Court.

13.In the result, this Criminal Revision Case fails and the same is hereby dismissed. However, there is no order as to costs.

Sd/-  
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

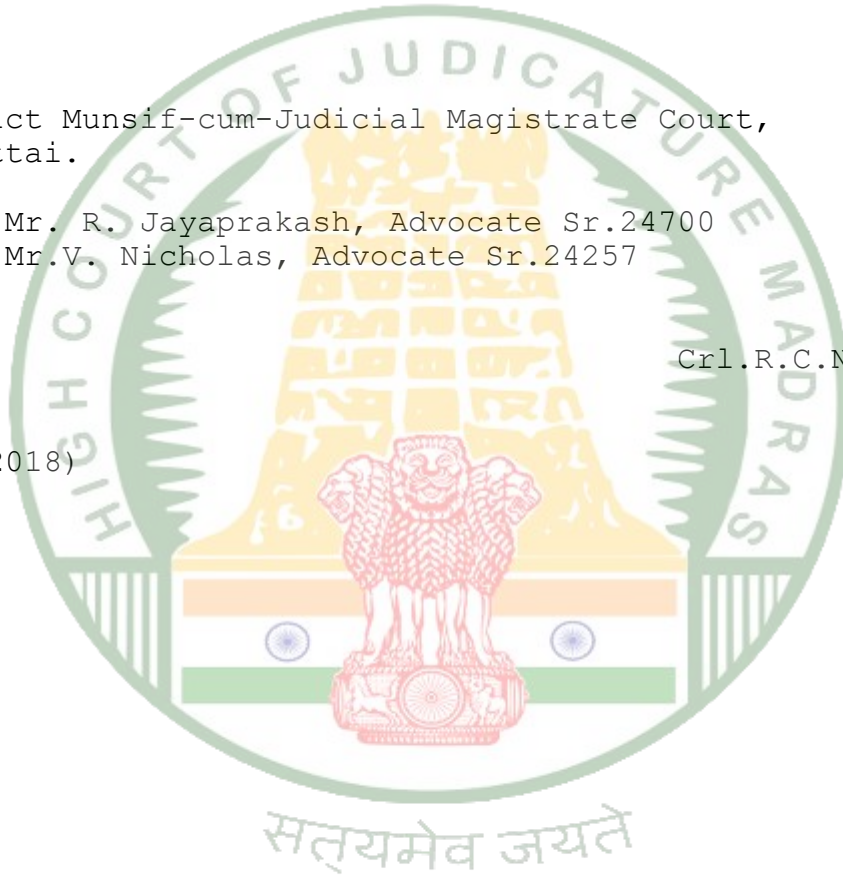
vs  
To

The District Munsif-cum-Judicial Magistrate Court,  
Denkanikottai.

+ 1 cc to Mr. R. Jayaprakash, Advocate Sr.24700  
+ 1 cc to Mr.V. Nicholas, Advocate Sr.24257

Crl.R.C.No.4 of 2018

SVI (CO)  
EU(13/04/2018)



WEB COPY