

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.07.2018
Pronounced on : 12.10.2018

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.13679 of 2010
and
M.P.No.1 of 2010

C.V.Illangovan,
S/o.C.Venkatesan.

... 1st Petitioner/'B' Party
/Vs./

1.State by,
The Inspector of Police,
Shankar Nagar Police Station,
Pammal, Chennai - 600 075.

2.The Revenue Divisional Officer and
Sub Divisional Magistrate,
Tambaram,
Chennai - 600 047.

... Respondent/
Complainant

3.V.Karunanithi,
S/o.Vedapuri.

4.Vendhan,
S/o.Jeevarathinam.

5.Parasuraman, M.C.
S/o.Elumalai.

6.Durai Ilango,
S/o.Durai.

7.Nagarathinam,
S/o.Munusamy.

8.Sooran,
S/o.Mani.

9.Inbasekar,
S/o.Munusamy.

10.Mani,
S/o.Loganathan.

11.Panneerselvam,
S/o.Natarajan.

12.Raja,
S/o.Duraikannu.

... Respondents 3 to 12 in
'A' Party

13.Dhandapani,
S/o.Duraisamy.

14.Jagan, M.C.
S/o.Vellaichamy.

15.Appu @ Venkatesan, M.C.
S/o.Balasundaram.

16.Mani,
S/o.Perumal.

17.Ranganathan,
S/o.Rathinam.

18.Chettibabu,
S/o.Durai.

19.Ganesan,
S/o.Ranganathan.

20.Raja,
S/o.Selvaraj.

21.Panneerselvam,
S/o.Dhandapani.

... Respondents 13 to 21
in 'B' Party

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to proceedings in Na.Ka.No.1431/2010/B dated 11.06.2010 on the file of the Revenue Divisional Officer and Sub Divisional Magistrate, Tambaram and quash the entire proceedings against the petitioner.

For Petitioner : Mr.S.Sairaman
For R1 & R2 : Ms.V.Saratha Devi,
Government Advocate [Crl.Side]

For R3 to R6
& R8 to R12 : Mr.R.Neelakandan

For R7, R13 to
R21 : No appearance [Not ready in notice]

O R D E R

The petitioner, who is 'B' Party to the 145 proceedings initiated by the 2nd respondent namely the Revenue Divisional Officer and Sub-Divisional Magistrate, Tambaram in Na.Ka.No.1431/2010/B dated 11.06.2010 has filed the above quash petition.

2.The contention of the learned counsel for the petitioner is that the petitioner had lodged a complaint before the 1st respondent Inspector of Police, Sankar Nagar Police Station on 09.06.2010 claiming that the political party to which he belongs is in possession of a property near Pammal Municipal office. On 09.06.2010 at about 11.00 p.m. the Chairman of Pammal Municipality and one Councilor Pammal belonging to rival political party took JCB from Pammal Municipality and without the permission of the Municipality damaged the property belonging to his political party. Further, the rival accused group threatened the members of the Political party of the petitioner. The 1st respondent though, received the complaint issued in C.S.R. No.337 of 2010 had simply forwarded the same to the 2nd respondent, who had initiated 145 Proceedings without satisfactory grounds and following the procedures contemplated under Section 145(1) of the Code of Criminal Procedure, against which filed the above quash petition. He had cited a citation of this Court reported in 2003(4) CTC 232 in the case of PONNAMMAL AND ANOTHER VS. REVENUE INSPECTOR, KINATHUKADAVU.

3.The 1st and 2nd respondent are represented by the learned Government Advocate [Crl. Side], the other respondents, who have been arrayed as "A" Party in the 145 proceedings had made their submissions and also filed a photograph and a counter narrating the sequence and origin and their right over the said property. The learned Government Advocate [Crl. Side] had filed a communication of the Revenue Inspector, Village Administrative Officer and the Inspector of Police, Sankar Nagar Police Station setting out the ownership of the disputed site.

4.Considering the rival submissions, materials submitted by the petitioner, respondent Nos.1 and 2 and of the other respondents, on perusal of the same, it is found that the 1st respondent had initiated 145 Proceedings pursuant to the F.I.R. in Crime No.325 of 2010 forwarded by the 2nd respondent to him in connection with the dispute over possession of the land and building in No.1, Polichalur Main Road, Pammal Village, Alandur Taluk, Kancheepuram District. On perusal of the FIR, the 1st respondent on coming to a conclusion and satisfied that there is

a dispute between 3rd Respondent and 9 others arraying them as "A" Party and petitioner and 9 others arraying them as "B" Party for breach of peace due to dispute over possession of the above said land had issued notice to both the parties to attend the enquiry. On receipt of the said notice, the petitioner has approached this Court and had obtained a Stay.

5.The respondent Nos.1 and 2 submit that due to the stay granted, the 1st respondent is unable to complete the enquiry and to pass an appropriate orders. The 2nd respondent with great difficulty is able to maintain forced peace between both the dominant political rivals over the possession of the disputed property and the threat of breach of peace still persists.

6.On perusal of the records submitted, it is seen that the Revenue Inspector by his report dated 19.07.2018 submits that in the disputed property, there is a dilapidated building and on his field enquiry made by the Village Administrative Officer it is found that as per the Revenue records it is a Grama natham recorded for public Well. In support of the same, village site field map, Chitta, Patta and Adangal have been filed. All these revenue documents show the disputed place as a public well. The photograph shows that there is a dilapidated small structure put up in the disputed site. The plaque found in the photograph it is seen that the said plaque has been installed on 01.05.1972 and it is a known fact that the "B" political party had came into existence after 17.10.1972. Further, a note was filed by the 3rd respondent from which it could be seen that in the year 1971 late Vedagiri Mudaliar had gifted the temple land for putting up a construction for their political activities. Hence, the genesis of the land in which the disputed structure is put up as per revenue records, it is a public well as per the 3rd respondent a temple land has been gifted and the contention of the petitioner that it belongs to his political party cannot be countenanced from the plaque found in the dilapidated building.

7.Be that as it may, this Court finds that the petitioner grounds and apprehension of initiating 145 proceedings by the 1st respondent without satisfaction is not acceptable. The 2nd respondent had rightly initiated 145 proceedings and even before attending and participating in the proceedings the petitioner had filed the quash petition.

8.Considering the breach of peace and for the public tranquility still exist, the petition is dismissed with a direction that the 1st respondent has to proceed with the Proceedings without any delay according to law.

9. Accordingly, this Criminal Original Petition stands dismissed with the above direction. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Revenue Divisional Officer and
Sub Divisional Magistrate,
Tambaram,
Chennai - 600 047.

2. The Inspector of Police,
Shankar Nagar Police Station,
Pammal, Chennai - 600 075.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr. S. Sairaman, Advocate, S.R.No. 71005

CrI.O.P.No.13679 of 2010

MR(CO)
GN(02/11/2018)

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