

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.19686 of 2012  
and  
MP.1/2012

Krishnamurthy

... Petitioner

Vs

1.The District Collector,  
Puducherry.

2.The Specified Officer,  
Villianur Taluk Officer,  
Villianur.

3.Pavadaisamy

4.Uma Maheswari

.... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari to call for the records, dated 06.07.2012 in Settlement Appeal No.2/2011 on the file of 1<sup>st</sup> respondent and quash the same as illegal.

For Petitioner : Mrs.Chitra Sampath, SC for  
M/s.T.S.Baskaran

For Respondents : Mr.B.Nambiselvan,  
Addl. Govt. Pleader for R1&R2  
Mr.R.Thiagarajan for R3

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O R D E R

Heard Mrs.Chitra Sampath, learned Senior Counsel appearing for the petitioner and Mr.B.Nambiselvan, learned Additional Government Pleader (Puducherry), appearing for respondents 1 and 2 and Mr.R.Thiagarajan, learned counsel appearing for 3<sup>rd</sup> respondent.

2. The petitioner has approached this Court, seeking the following relief:-

"To issue a writ of Certiorari to call for the records dated 06.07.2012 in Settlement Appeal No.2/2011 on the file of 1<sup>st</sup> respondent and quash the same as illegal."

3. The case of the petitioners is as follows:-

It appears that the petitioner had sold an extent of 60 Kuzhi (32 Ares and 12 Centiares) to the 3<sup>rd</sup> respondent under a sale deed, dated 27.03.2003 in Doc.No.421/2003 in R.S.No.182/7 in Old Cadastre No.401 bis, in Kunichampet Village excluding the northern 1 Kuzhi 11 Veesm. It also appears that the remaining land of the petitioner was also sold to the 4<sup>th</sup> respondent by another sale deed dated 18.05.2006 in Doc.No.1426/2006. Both 3<sup>rd</sup> and 4<sup>th</sup> respondents, after the sale of the property, had obtained patta in their names.

4. While matter stood thus, 3<sup>rd</sup> respondent found that there was a mistake in subdivision of the land, since according to him, some portion of the land, which was sold to him has been included in subdivision of the land in favour of 4<sup>th</sup> respondent. In this connection, the 3<sup>rd</sup> respondent has approached the Director of Settlement, Puducherry, to delete the name of 4<sup>th</sup> respondent in Patta register of the said property and the Director of Settlement, Puducherry, directed him to file an appeal before the Collector, under Rule 26(b) of Puducherry Settlement Rules, 1970. In these circumstances, the 3<sup>rd</sup> respondent filed an appeal in Settlement Appeal No.2 of 2011 before the first respondent/District Collector, Puducherry. The 1<sup>st</sup> respondent after hearing both 3<sup>rd</sup> respondent and 4<sup>th</sup> respondent, has held that the 3<sup>rd</sup> respondent was entitled to patta for 60 kuzhi sold to him by the petitioner and while hearing the appeal, the petitioner was also summoned for the purpose of ascertaining any transaction that took place between the petitioner and the 3<sup>rd</sup> respondent and 4<sup>th</sup> respondent.

5. While holding that 3<sup>rd</sup> respondent was entitled to 60 kuzhi which was sold to him by the petitioner, simultaneously the 1<sup>st</sup> respondent held that the petitioner had committed an act of cheating and forgery and directed the Station House Officer, Thirukkanur, to register a criminal complaint against the petitioner under Sections 420 and 186 of IPC. The District Collector who enquired the dispute between 3<sup>rd</sup> respondent and 4<sup>th</sup>

respondent, has concluded that the petitioner had committed an act of cheating and forgery attracting the offences of Indian Penal Code. The said direction is put to challenge in the present writ petition by the petitioner.

6. The learned Senior Counsel appearing for the petitioner would submit that it is beyond the jurisdiction of the 1<sup>st</sup> respondent to pass such direction, directing the Police Officer to register a criminal case against the petitioner. The petitioner was not made as a party in the appeal proceedings and therefore, he could not provide certain documents to clarify the transaction and without giving any opportunity to the petitioner, straightaway, 1<sup>st</sup> respondent/District Collector concluded that the petitioner had committed an act of cheating and forgery. According to the learned Senior Counsel for the petitioner, there was absolutely no substance for such conclusion both legally and factually and therefore, the direction to the police officer to register the criminal complaint is without any jurisdiction and the same is unwarranted in the facts and circumstances of the case.

7. The learned Senior Counsel would also submit that the petitioner sold the remaining extent of properties (25 kuzhies) to the 4<sup>th</sup> respondent and there was nothing wrong in such sale to 4<sup>th</sup> respondent since in the original sale deed, which was executed in favour of 3<sup>rd</sup> respondent also mentioned about certain remaining land and that the said remaining land was only sold to the 4<sup>th</sup> respondent. That being the case, the conclusion by the 1<sup>st</sup> respondent/District Collector, is on the basis of the revenue records and therefore, the impugned direction by the District Collector cannot be countenanced both in law and on facts. In any event, the learned Senior Counsel for the petitioner would submit that 4<sup>th</sup> respondent, who is aggrieved against the order, has not preferred to challenge the order passed by 1<sup>st</sup> respondent dated 06.07.2012, which is impugned in the present writ petition.

8. The learned counsel for 3<sup>rd</sup> respondent would submit that in view of the act of the petitioner, there is a dispute in regard to the title enjoyed by the petitioner in respect of 60 kuzhi sold to him by the petitioner. According to him, the petitioner was wholly responsible for creating title dispute between respondents 3 and 4 and therefore, the District Collector has rightly directed the Police Officer to register the criminal case against the petitioner.

9. This Court has considered the rival submissions of the learned counsel appearing for the parties. As rightly contended by the learned Senior Counsel appearing for the petitioner, in the dispute between respondents 3 and 4, which was the subject matter of the appeal before 1st respondent, how 1<sup>st</sup> respondent can conclusively hold that the petitioner had committed an act of cheating and forgery and therefore can direct the police officer to register the criminal case against the petitioner.

10. As rightly contended by the learned Senior Counsel, the said direction in the Revenue Appeal appears to be beyond the jurisdiction vested with the 1st respondent/District Collector and the 1<sup>st</sup> respondent ought to have referred the parties to initiate action against the petitioner as they deemed fit if they are aggrieved by any act of the petitioner. He cannot by disposing of the revenue appeal to issue such direction for criminal action against the petitioner. In this case, it appears that the Collector conclusively held that the petitioner had committed an act of cheating and forgery, without the authority of law. It is needless to mention that such conclusive action would clearly undermine the defence of the petitioner in the criminal proceedings and therefore, the Collector ought not to have given such direction while disposing of the appeal. In any event, when the petitioner was summoned for explanation for selling some remaining portion of the land to 4<sup>th</sup> respondent, in case of any inconsistency in the sub division of the land between 3<sup>rd</sup> respondent and 4<sup>th</sup> respondent, it is always open to them to approach the proper legal forum for settlement of the dispute. In the absence of such action on the part of the aggrieved parties, it is not open to the Collector to issue the direction to the Station House Officer to take criminal action against the petitioner under the provisions of IPC.

11. Based on the above facts, this Court is of the considered view that the impugned direction by 1<sup>st</sup> respondent/District Collector in his proceedings, dated 06.07.2012, in settlement appeal No.2 of 2011, to register a criminal case against the petitioner is beyond the scope of the jurisdiction of 1<sup>st</sup> respondent and such direction in the facts and circumstances of the case, is totally improper and cannot be sustained in law and therefore, the direction as such by 1<sup>st</sup> respondent to register the criminal case against the petitioner stands quashed.

12. In the view the above direction, this Writ Petition stands **\*disposed of** No costs.

Sd/-  
Assistant Registrar(CS IX)  
Dated:04/07/2018

\*Amended as per  
the order dated  
24.07.2018 made in  
W.P.No.19686 of 2012

Sd/-  
Assistant Registrar(CS-II)  
Dated;25/07/2018

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector,  
Puducherry. To be substituted the order copy  
Already despatched on 17/7/2018
- 2.The Specified Officer,  
Villianur Taluk Officer,  
Villianur.

+1cc to Mr.T.S.Baskaran, Advocate, S.R.No.\***49144**  
+1cc to Mr.R.Thiagarajan, Advocate, S.R.No.36208  
+1cc to the Government Pleader, S.R.No.\***49647**  
+1cc to Mr.R.Thiagarajan, Advocate Sr.49703 [27/07/2018]

WP.NO.19686 of 2012

VBA(CO)  
GSP(05/07/2018)  
srg 26/07/2018

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