



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.01.2018

Delivered on : 11.01.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

CrI.O.P. (MD) No.8527 of 2013

&

MP (MD) No.1 of 2013

1.K.Peter John
2.K.Eugin Ravi Kumar
3.K.Ezhil
4.V.Kurusumicheal

... Petitioners

Vs.

1.The Sub-Divisional Magistrate-cum-Revenue
Divisional Officer,
Padmanabhapuram,
Thuckalay Post,
Kanyakumari District.

2.The Parish Pastoral Council,
Church of Our Lady of Mount Carmel,
Murasancode Parish,
Neyyoor Post,
Kanyakumari District.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the order, dated 16.05.2013, passed in Na.Ka.No.A2/2382/2013, on the file of the Sub-Divisional Magistrate-cum-Revenue Divisional Officer, Padmanabhapuram, Kanyakumari District.

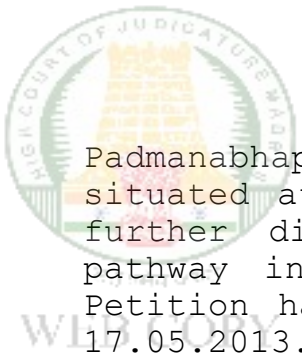
For Petitioners : Mr.J.John Jayakumar

For R1 : Mr.K.S.Duraipandian
Additional Public Prosecutor

For R2 : Mr.Manimaran

ORDER

The petitioners 1 and 4 were directed by the learned Sub-Divisional Magistrate-cum-Revenue Divisional Officer,



Padmanabhapuram, Kanyakumari District, to remove the compound wall situated at S.F.No.203/4, Lakshmipuram Village, Kalkulam Taluk and further directed to construct the compound wall after leaving pathway in 6 feet width, against which, this Criminal Original Petition has been filed for quashing the above proceedings, dated 17.05.2013.

2.Now, along with the petitioners 1 and 4, the petitioners 2 and 3 also filed this petition based on the ground that they are also having right over the property in S.F.No.203/4.

3.The learned counsel for the petitioners submitted that the first respondent herein without any enquiry, passed the impugned proceedings, which is in violation of Article 300-A of the Constitution of India. Further, he submitted that the disputed property was purchased by the fourth petitioner through the sale deed dated 25.05.1990. After purchasing the said property, the fourth respondent herein executed a settlement deed dated 31.03.2009 in favour of the first petitioner. After execution of the settlement deed, mutations were effected in the revenue records and thereby, Patta has been changed in favour of the first petitioner. After receiving notice from the first respondent, the petitioners 1, 2 and 4 herein sent a reply by stating the abovesaid reasons. Accordingly, the petitioners herein are claiming title in S.F.No.203/4 through the sale deed, dated 25.05.1990.

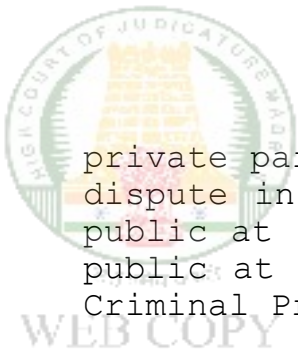
4.This Court heard the submissions of the learned counsel appearing for the petitioner, the learned Additional Public Prosecutor appearing for the first respondent and the learned counsel appearing for the second respondent.

5.Article 300-A of the Constitution of India reads as follows:

''300A.Persons not to be deprived of property
save by authority of law.- No person shall be
deprived of his property save by authority of
law.''

6.In this event, in general, if the title is disputed by any party, that can be decided only in Civil Court. In our case, Document No.1, Sale Deed annexed in the typed set of papers create a prima facie case that the petitioners herein are having right over the property mentioned in S.F.No.203/4. So, the said aspect was clearly mentioned by the petitioners in the reply notice sent to the first respondent. Thereafter, without considering the said aspect and without conducting any enquiry, the first respondent herein issued the impugned proceedings, dated 17.05.2013. So, the action of the first respondent is not justifiable.

7.Further, in the case of Ramachandra Malojirao Bhonsale Vs. <https://hcrs.csbhrtts.gov.in/hcrservices1> and others reported in 2001 Cri.L.J. 866, it has been held that provisions of Section 133 of the Criminal Procedure Code cannot be used for settlement of disputes between the



private parties. Such provisions can be used only for settlement of dispute in relation to public right in the general interest of the public at large. If the dispute affects one individual but not the public at large, the jurisdiction under Section 133 of the Code of Criminal Procedure could not be exercised.

8. In view of the above decision cited supra and discussion, the proceedings dated 17.05.2013, is liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the impugned proceedings of the first respondent dated 17.05.2013, is quashed. Consequently Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Sub-Divisional Magistrate-cum-Revenue
Divisional Officer,
Padmanabhapuram,
Thuckalay Post,
Kanyakumari District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.J. JOHN JAYAKUMAR, Advocate SR.No.41914.

Cr1.O.P. (MD) No.8527 of 2013
11.01.2018

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SDS/SV:MMS/SAR 4/22.01.2018/3P/4C