

SMT JUSTICE T. RAJANI

CRIMINAL PETITION Nos.3673 and 5351 of 2011

COMMON ORDER:

CRLP.No.3673 of 2011 is filed seeking for quash of the proceedings in C.C.No.59 of 2011, against the petitioners, who are A1 to A5, respectively, on the file of the Additional Judicial Magistrate of First Class, Kovvur, which is based on the complaint filed by the first respondent herein, while CRLP.No.5351 of 2011 is filed seeking for quash of the proceedings in C.C.No.749 of 2008, against the petitioner, on the file of the Additional Judicial Magistrate of First Class, Kovvur, which is based on the complaint filed by the Tahsildar, Dagadarthi Mandal, SPSR Nellore District. The offences alleged are under Sections 143, 447, 427, 188 read with Section 149 of the Indian Penal Code.

2. Since the subject matter involved in these criminal petitions is same, they are being taken up for disposal by this common order.

3. Heard the counsel for the petitioners, the learned counsel for the first respondent and the learned Public Prosecutor, appearing for the second respondent.

4. Since the issue in these criminal petitions is one and the same, the facts in CRLP.No.3673 of 2011 would suffice for disposal of the cases.

The ancestors of the complainant and others, totalling 114 members, of Damavaram village acquired an extent of Ac.607.95 cents in Sy.No.1/1 of Damavaram village from Shothriyamdars on

perpetual lease rights, which is the disputed land. The complainant acquired an extent of Ac.3.75 cents and his wife also acquired an extent of Ac.3.75 cents and in total the family members of the complainant acquired an extent of Ac.11.50 cents out of Ac.607.95 cents and were in joint possession of the same since 15 years. When the Government had interfered with their possession, the complainant filed WP.No.26022 of 2008 and WP.No.34049 of 2008 before this Court and obtained status quo in his favour. The order was granted, recommending their possession and their names were entered into Adangal No.3.

When the police, along with Tahsildar, Dagadarthi Mandal, interfered with their possession, they filed WP.no.1404 of 2010 before this Court and obtained a direction not to interfere with their possession. While so, on 21.11.2010 the accused i.e. the petitioners herein formed into unlawful assembly and came armed with deadly weapons at the instance of opposite party elements in the village, at midnight and highhandedly trespassed into the above said land, along with tractors and damaged the black gram crop raised by the complainant and others and caused loss of Rs.2,00,000/- to the complainant, his wife and one Ragaiah. The same was witnessed by neighboring land owners. Among the witnesses, Maheswara Rao and Veerapalli Venkateswarlu informed the same to the complainant over phone and on the next day i.e. on 22.11.2010 the complainant and one Ragaiah went to the spot and noticed the damaged crop and lodged a report before the Dagadarthi Police Station and the Tahasildar, Dagadarthi against the accused, but they did not take any action, as such, they filed a private complaint before the Additional

Judicial Magistrate of First Class, Kovvur seeking necessary action. The sworn statement of the complainant was recorded and cognizance was taken for the offences under Sections 447, 427 and 352 IPC and the case was registered in CC.No.59 of 2011 and summons were issued to all the accused. Seeking for quash of the order of cognizance, this petition is filed by the petitioners.

5. The contentions of the petitioners are that the first petitioner is the Managing Director of Krebs Biochemicals and Industries Limited; the second petitioner is the Manager and the third petitioner is the Chief Operating Officer of the said industry. The first petitioner being interested in purchasing landed property, in the year 1999, he enquired thoroughly and learnt that the lands in Damavaram village in Sy.No.1/1 belong to Shotriyamdars having perpetual lease rights, which were conferred by virtue of the judgment in O.S.No.29 of 2005 on the file of the District Judge, Nellore. The first petitioner approached the complainant and others and after finalizing the talks, the first petitioner purchased the land in an extent of Ac.51.12 cents from the complainant and others and obtained Vikraya letter dated 15.12.1999. The complainant received some amount by way of cheque. After purchasing the land, petitioners 1 to 3 made developments by levelling the land and erecting pakka zinc roof sheds and brought it fit for cultivation. They raised plantation and also erected filter points to raise the dry crops. Petitioners 1 to 3 brought to the notice of other ryots, that an application has to be made before Settlement Officer for issuance of Settlement Patta. Accordingly, the first petitioner, along with others, made an application before the

Settlement Officer, who dismissed the application. Questioning the same, the first petitioner filed a revision petition.

The Commissioner and Director of Settlements, while entertaining the revision, directed to maintain status quo and by order dated 02.02.2005 directed stay of eviction till disposal of the revision. The first petitioner filed O.S.No.53 of 2005 before the Senior Civil Judge, Kovvur seeking permanent injunction and an Advocate Commissioner was appointed and physical features were noted down, wherein it was categorically mentioned that the land was in occupation of the first petitioner and that a zinc sheet roof shed was erected in the land. When the MRO initiated 145 proceedings against the first petitioner, presuming that the land belongs to Government, the first petitioner filed a revision before the RDO, Kavali, who is the appellate authority and as he did not act upon it, he filed WP.No.18101 of 2005 and this Court by order dated 17.08.2005 directed the appellate authority to dispose of the appeal within 12 weeks. Pursuant to the said direction, the RDO allowed the appeal setting aside the orders of the MRO. As if the first petitioner violated the proceedings of the MRO, the MRO lodged a complaint before in Cr.No.106 of 2005 and subsequently, it was numbered as CC.No.335 of 2005. Questioning the same, the first petitioner approached this Court by way of CRLP.No.2056 of 2006 and this Court quashed the proceedings in CC.No.335 of 2005.

In the suit, O.S.No.148 of 2007, filed by the petitioner, which is pending before the Senior Civil Judge, Kovvur, the complainant was impleaded as seventh defendant by virtue of orders in IA.No.349 of 2010 dated 17.09.2010. Till recently, the property had no value and in

view of the land boom, the property prices have gone up and the complainant, in order to grab the property, approached the Court, by suppressing the true facts.

6. The first petitioner filed orders in the above mentioned proceedings, which supports his contentions. The Commissioner's report also recorded that the land is in possession of the first petitioner.

7. The counsel for the respondent submits that the respondent is in possession of the said property and that there was an order in his favour against the police not to interfere with his possession and later, status quo order was passed in the writ petition filed by the first petitioner. He contends that by virtue of the fact that an injunction was granted in favour of the respondent, it has to be concluded that the possession is with the respondent.

8. However, the record discloses that the complainant and the petitioners have been waging parallel wars in respect of the same property. The total extent of land in Sy.No.1/1 is more than 607 acres and the claim of the petitioners and the complainant is in respect of a part of the land in the said survey number. This Court, in all orders, expressed that the disputes have to be settled in civil Court. The contention of the petitioners is that they have purchased the property from the respondent. However, some of the litigations raised by the parties are still pending and the rights of the parties are not decided by a competent Court. Hence, there is every possibility of the complaints, being an effort to substantiate the rights of the

complainant. Hence, till the rights of the parties in respect of the lands are decided, the allegations in the complaints cannot be believed. Hence, this Court opines that further proceedings against the petitioners are liable to be quashed.

In the light of the above, the criminal petitions are allowed and proceedings in C.C.No.59 of 2011, against the petitioners, who are A1 to A5, on the file of the Additional Judicial Magistrate of First Class, Kovvur and the proceedings in C.C.No.749 of 2008, against the petitioner, on the file of the Judicial Magistrate of First Class, Kovvur, respectively, are hereby quashed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

September 27th, 2018
DSK



T. RAJANI, J