

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.06.2019
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
Crl.OP No.16024 of 2019
and
Crl MP No.7988 of 2019

1.K.Sampath
2.Kuppusamy

.. Petitioners

.Vs.

1.The State rep.by
Inspector of Police,
District Crime Branch,
Anti-Land Grabbing Special Cell,
Vellore District.

(Crime No.25 of 2016)

2. S.Sundari

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.25 of 2016 dated 07.10.2016, on the file of the first respondent and quash the same as against the petitioners.

For Petitioner : Mr.N.R.Elango, Sr.counsel
for M/s. Aruna Elango

For R-1 : Mr.M.Mohamed Riyaz, APP

ORDER

This Criminal Original Petition has been filed challenging the FIR registered against the petitioners who are added as A-2 & A-3, pending on the file of the respondent Police in Cr.No.25 of 2016.

2. The Complaint has been given by the 2nd respondent on the ground that she is the legal heir of the deceased Ramasamy and that A-1 had created a forged Will dated 21.01.2002, as if the property was bequeathed to A-1. The further allegation that has been made in the Complaint is that A-1 based on the forged Will has sold the property to A-2 by a Sale Deed dated 01.04.2010, and thereafter A-2 had settled the property in favour of A-3 by virtue of Settlement Deed dated 17.06.2014.

3. Mr.N.R.Elango, learned Senior Counsel appearing on behalf of the petitioners submitted that the Complaint itself is not maintainable in view of the fact that the 2nd respondent has to first establish the fact that she is the legal heir of the deceased Ramasamy. The learned Senior Counsel further submitted that the forged Will is said to have been created in the year 2002 and Ramasamy had died in the year 2005 and the first petitioner has come into the scene, even as per the complaint only in the year 2010 and the 2nd petitioner has got into the scene later in the year 2014. Therefore, A-2 and A-3 were admittedly not aware of the creation of the forged Will, and therefore these petitioners should not have been made as accused persons in this case and at the best they can only be made as a witnesses by the respondent Police.

4. The learned Additional Public Prosecutor submitted that the case is under investigation and the role played by A-2 and A-3 will be known only in the course of investigation. The learned Additional Public Prosecutor further submitted that some time may be given for the completion of the investigation and to file a Final Report.

5. This Court has carefully considered the submissions made on either side.

6. It is not known as to why the investigation has been kept pending from the year 2016, by the respondent Police. Even otherwise, the petitioners were nowhere in the scene till the year 2010 and 2014 respectively and the alleged forged Will is said to have been created in the year 2002. Except for the fact that A-2 had purchased the property in the year 2010 and had later settled the property in favour of A-3 in the year 2014, there are no other allegations available against the petitioners. At any rate, even if the allegations are taken to be correct and true, there is no case for creation of a false document as against A-2 and A-3 and even the FIR has not been registered for the offence of criminal conspiracy. Yet another important factor that should be noticed is that the de facto complainant must first establish that she is the legal heir of the deceased Ramasamy and this determination can take place only before a Competent Civil Court and the Police may not be competent to decide the same.

7. The respondent Police is directed to take into consideration all the above findings rendered by this Court and treat the petitioners, at the best as witnesses and complete the investigation within a period of two months from the date of receipt of copy of the order, and file a Final Report or a Closure Report as the case may be before the Competent Court.

Criminal Original petition is disposed of accordingly.
Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

KP

To

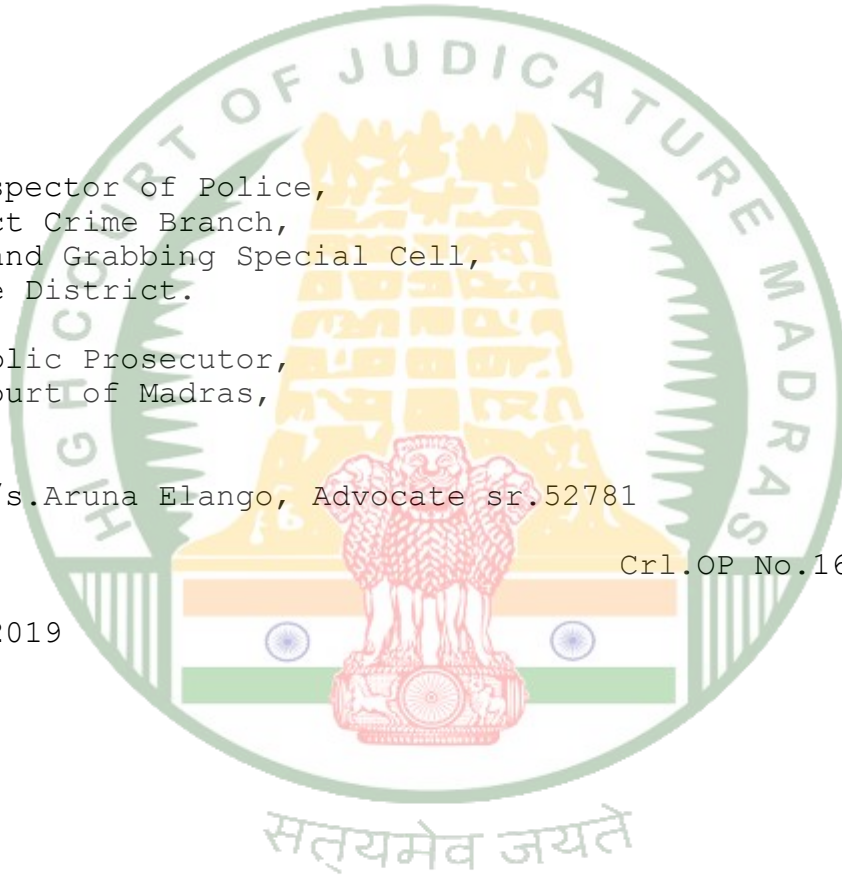
1.The Inspector of Police,
District Crime Branch,
Anti-Land Grabbing Special Cell,
Vellore District.

2..The Public Prosecutor,
High Court of Madras,
Madras.

+1cc to M/s.Aruna Elango, Advocate sr.52781

Crl.OP No.16024 of 2019

ss(co)
nr 25/07/2019



WEB COPY