



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2019

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.1323 of 2014

and M.P.No.1 of 2014

WEB COPY

1.M.Pandian
2.Geetha @ Jaya Geetha
3.Latha
4.Uma
5.R.Peterseelan
6.R.Balasubramanian
7.Nagarajan
8.Murali
9.Shanthi
10.Rani
11.Iyyappadhas
12.Vishnudhass
13.Rajaparameswari

... Petitioners

-vs-

1.State of Tamil Nadu
Represented by the Inspector of Police,
District Crime Branch Police,
Dindigul District, Dindigul.

2.K.Balakrishnan ... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to the case in C.C.No.598 of 2013 pending on the file of the Judicial Magistrate, NO.2, Dindigul and quash the same.

For Petitioners : Mr.N.Dilipkumar
For Respondent : Mr.M.Chandrasekaran for R1
Additional Public Prosecutor
Mr.D.Selvaraj for R2

O R D E R

The property in question measuring about 3 acres and 4 cents in S.No.29/2 originally belonged to Muthiah Nadar. Muthiah Nadar had five sons, namely, Mariappa Nadar, Pandian, Rajendran, Kasirajan and Thilagar and four daughters, viz., Periyamayagi, Vaiduriyam, Josephin and Rajaparameswari.

2. Muthiah Nadar's wife Lakshmiammal also had several properties. When Muthiah Nadar was alive, the partition deed was executed on 30.04.1972 Document No.564/1972, under which, most of his properties were partitioned among his wife, sons and



daughters. Muthiah Nadar's wife Lakshmi ammal died in the year 1976.

3. After the death of Lakshmi Ammal, Muthiah Nadar executed a Will dated 09.07.1984 registered as Document No.7/1984 in respect of the properties belonging to his wife Lakshmi Ammal and bequeathed three acres and four cents to his son Mariappa Nadar, 82 cents to Thilagar and a house to Pandian. Muthiah Nadar died on 11.05.1988. After the death of Muthiah Nadar, Pandian sold the property derived by him through the Will to one Pachaiappa Nadar. Similarly, Thilagar sold the property derived by him through the Will to one Murugavel. It appears that Mariappa Nadar also died. While so, it is alleged that A1 to A15 the surviving legal heirs of Muthiah Nadar had sold 2 acres and 71 cents out of 3 acres and 4 cents that was given to Mariappa Nadar to Somasundara Pandian/A16 by contending that three acres and four cents of land belonged to Lakshmi Ammal and Muthiah Nadar had no right whatsoever to write a Will for the said property. In fact, A1 to A15 have contended that Mariappa Nadar Branch has got 1/10th share in the said property, which is 33 cents and they have sold the balance of 2 acres and 71 cents to Somasundara Pandian/A16. This is the crux of the chargesheet.

4. The de-facto complainant in this case is K.Balakrishnan, who is the grandson of Mariappa Nadar. Admittedly, a suit in O.S.No.14/2013 has been filed before the District Munsif Court, Nilakottai by Mariappa Nadar branch claiming right and interest over the entire extent of 3 acres and 4 cents by claiming the right under the Will.

5. In such view of the matter, this Court does not find any criminality to prosecute the accused in this case, inasmuch as they are claiming right, because they had sold only their share of the property leaving behind 1/10th share for Mariappa Nadar branch. Whether Mariappa Nadar branch can claim the entire share of 3 acres and 4 cents as their own property will have to be decided only by the civil Court. Under such circumstances, the prosecution of the accused in C.C.No.598/2013 is an abuse of process of law and accordingly, this petition is allowed and the proceedings in C.C.No.598/2013 is hereby quashed. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //



To:

1.The Judicial Magistrate, No.2
Dindigul.

2.The Inspector of Police,
District Crime Branch Police,
Dindigul District, Dindigul.

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

+1 CC to M/s.S.SARVAGAN PRABHU, Advocate (SR-49346[F] dated
25/02/2019)

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-49579[F] dated
25/02/2019)

rr

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