

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.7150 of 2006

P.Dharmachand

... Petitioner

Vs

1.K.Balasigamani

2.B.Gurubagyan

3.B.Gokul

4.B.Anandhi

5.B.Sudha

6.G.Anbazhagan

7.A.Jothi

8.A.Arunagiri

9.A.Pasupathi

10.State of Tamil Nadu,

Rep. by Inspector of Police,
Central Crime Branch,
Egmore, Chennai.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct an officer of this Court to investigate and file a detailed report against the respondents 1 to 9 for various fraudulent Acts in Judicial Proceedings affecting the administration of Justice, being Abuse of Process of Court amounting to commission of different offences in collusion and criminal conspiracy, with a view to deprive the rights of petitioners principals in relation to their property through the fraudulent execution of the Nine Forged Sale Deed Documents Nos.1. 2951 of 2001, 2. 2952 of 2001, 3. 2953 of 2001, 4. 2954 of 2001, 5. 2955 of 2001, 6. 2956 of 2001, 7. 2957 of 2001, 8. 2958 of 2001 and 9. 2959 of 2001 to hear and dispose of the criminal R.C.Nos.2005 of 2004 and 34 of 2005 and criminal appeal Nos.1358 of 2004 and 1444 of 2004 filed by the 10th respondent State of Tamil Nadu expeditiously along with this present application in pursuance of the order of the Hon'ble Supreme Court of India dated 05.01.2006 in Special Leave Petitions Cr1.Nos.6440-6441 of 2005 to secure the ends of justice.

For Petitioners : M/s.S.Murugan

For R10

<https://hcservices.ecourts.gov.in/hcservices/>

: Mr.C.Iyyappa Raj
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed praying to direct an officer of this Court to investigate and file a detailed report against the respondents 1 to 9, for various fraudulent Acts in Judicial Proceedings, for fraudulent executing of the Nine Forged Sale Deed Documents.

2. The facts of the case, in nutshell, are as follows:-

(i) The petitioner is the Attorney of Sh.S.M.Nizamuddin Fakhri and his other family members, who, as per the orders passed by this Court and Wakf Board were jointly permitted to retain 60 grounds out of 90 grounds of vacant land, comprised in Survey No.2024, Block No.41, Arundale St.Mylapore, Chennai. The value of the said land is Rs.14 Crores.

(ii) The first respondent is a building contractor and promoter, carrying on his business under the name and style of "M/s.Gokul Constructions." Rest of the respondents are his family members and relatives. On 31.08.1990, the first respondent entered into a joint venture development agreement with the land owners, for construction of residential flats, which was to be divided in the ratio of 60% : 40 %. The land owners also executed a power of Attorney in favour of the first respondents, who, with malafide intention of grabbing the land had executed nine sale deeds, in favour of his relations viz., R2 to R9 and got the same registered before the Sub-Registrar Office, Mylapore, Chennai, without the knowledge either the land owners or the petitioner, as power of attorney.

(iii) Based on the complaint filed in CrI.Misc.Petition No.2623 of 2002, under Section 156(3) Cr.P.C., the 11 Metropolitan Magistrate, Egmore, Chennai, ordered for police investigation with regard to fraudulent execution of nine sale deeds by the respondents. Thus, a case in Crime No.432 of 2002 was registered, after investigation, a report was submitted before the concerned matter, which was taken on file in C.C.No.242 of 2002, for offences under Section 464, 465, 468, 471 and 120(B) of IPC. The learned Magistrate, after an elaborate trial, found the respondents 1 to 9 guilty and convicted and sentenced them.

(iv) Aggrieved over the same, the respondents 1 to 9 filed Criminal Appeals and the learned III Additional Sessions Judge, Chennai allowed the appeal, vide order dated 25.08.2004, by setting aside the Judgment and order of the conviction and acquitted the respondents 1 to 9. Against which, the petitioner preferred two Revision Petitions being CrI.R.C.No.2005 of 2004 and CrI.R.C.No.32 of 2005 before this Court, which are pending. Further, the petitioner preferred CrI.O.P.No.24947 of 2005, before this Court, against the respondents 1 to 9, for initiation of criminal proceedings, which was dismissed by this Court on 27.09.2005, for default. Hence, petitioner preferred Special Leave Petition, latter, which was withdrawn with liberty to move this Court for appropriate orders.

3. I have heard the learned counsels appearing on either side and perused the materials available on record.

4. On perusal of the records it is seen that in an earlier round of litigation in W.P.Nos.15228, 15285, 15289, 15303, 15573, 15579, 15613 & 24515 of 2013, the learned counsel for the petitioner seeks permission of this Court to dispose of the Writ Petitions, by permitting the petitioner to raise all the issues before the Civil Court, in the Suit filed in C.S.No.72 of 2002 and recording the submissions, the writ petitions were disposed of accordingly. The relevant portion of the order reads as follows:-

"2.The learned counsel for the petitioner would submit that the 2nd respondent ordered registration of cancellation of sale deed without express consent of the petitioner as per G.O.Ms.150, Commercial Taxes, dated 22.09.2000. He would further submit that the very same dispute with regard to cancellation of sale deed, the respondent has filed a Civil Suit in C.S.No.72 of 2002 before this Court and hence, this Court may permit the petitioner to raise all the issues in the said suit and also made an endorsement as follows:-

The points urged in W.P.Nos.15228, 15579, 15613, 15285, 15289, 15303, 15573 & 24515 of 2013 may be canvassed in C.S.No.72 of 2002.

The learned counsel for the respondents would submit that they have no objection to grant liberty to the petitioner to canvass all the issues before the civil Court.

Recording the submission made by the learned counsel for the petitioner, the Writ Petition stands disposed of, by giving liberty to the petitioner to work out his remedy before the civil court for necessary relief in the manner recognized by law. Consequently, the connected Miscellaneous Petition is closed. No costs."

5.In light of the orders passed by this Court in W.P.Nos.15228, 15285, 15289, 15303, 15573, 15579, 15613 & 24515 of 2013, dated 24.02.2020, no further order is necessary in this Criminal Original Petition. Accordingly, this Criminal Original Petition stands closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

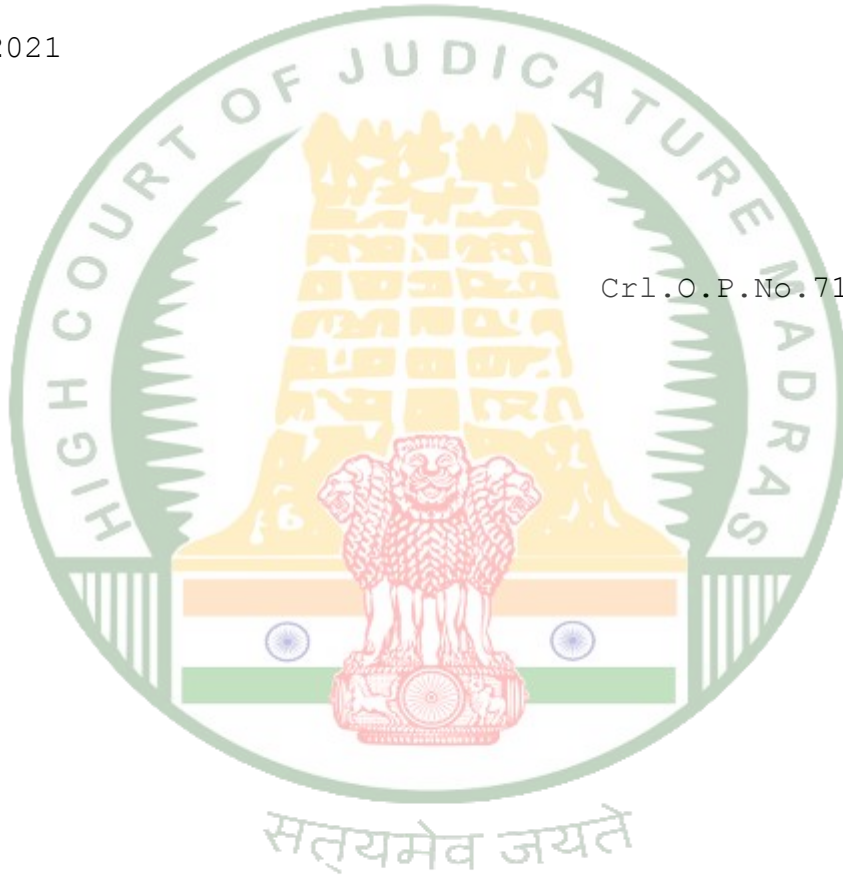
To

1.The Inspector of Police,
Central Crime Branch,
Egmore, Chennai.

2.The Public Prosecutor,
High Court, Madras.

+1 CC.to Mr. R. Natarajan, Advocate, Sr.No.15955

MGR(CO)
SM/08/03/2021



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